[Docket No. 3244]

IN THE MATTER OF HARRY A. RIPPNER AND LOUIS G. RIPPNER, INDIVIDUALLY, AND DOING BUSINESS UNDER THE TRADE NAME AND STYLE OF JOHN HANCOCK PEN COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, June 3, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 531, Federal Building, Cleveland, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1373; Filed, May 13, 1938; 9:53 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 246]

ALLOCATION OF FUNDS FOR LOANS

MAY 9, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Washington 8023A2 Grays Harbor	$19,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1365; Filed, May 12, 1938; 3:29 p. m.]

[Administrative Order No. 247]

AMENDMENT OF ALLOCATIONS OF FUNDS FOR LOANS

MAY 10, 1938.

I hereby amend Administrative Order No. 125 by reducing the amount of the allocation to Alabama 8023B Pike from $310,000 to $243,350.

I hereby amend Administrative Order No. 124 by rescinding the $97,500 allotted to Illinois 8004B Peoria.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1366; Filed, May 12, 1938; 3:29 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 11th day of May 1938.

[File No. 7-235]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY COMMON STOCK, 6% CUMULATIVE PRIOR PREFERENCE STOCK, 6% CUMULATIVE PREFERRED STOCK, AND 6% NON-CUMULATIVE SECOND PREFERRED STOCK, EACH $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO EXTEND UNLISTED TRADING PRIVILEGES

The San Francisco Stock Exchange, pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and rule JF1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the Common Stock, $100 Par Value, 6% Cumulative Prior Preference Stock, $100 Par Value, 6% Cumulative Preferred Stock, $100 Par Value, and 6% Non-Cumulative Second Preferred Stock, $100 Par Value, of Market Street Railway Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, June 1, 1938, in Room 1301, Securities and Exchange Commission, 625 Market Street, San Francisco, California, and continue thereafter at such times and places as the Commission or its officers herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Howard A. Judy and Charles R. Burr, or either of them, officers of the Commission, be and they hereby are designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1377; Filed, May 13, 1938; 12:35 p. m.]

Tuesday, May 17, 1938 *No. 96*

WAR DEPARTMENT.

RULES AND REGULATIONS TO GOVERN THE USE, ADMINISTRATION AND NAVIGATION OF ALL WATERWAYS TRIBUTARY TO THE ATLANTIC OCEAN SOUTH OF CHESAPEAKE BAY AND ALL WATERWAYS TRIBUTARY TO THE GULF OF MEXICO EAST AND SOUTH OF ST. MARKS, FLORIDA

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917 provides as follows:

SEC. 7. * * * That it shall be the duty of the Secretary of War to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regulations shall be posted in conspicuous and appropriate places, for the information of the public; and every person and every corporation which shall violate such regulations shall be deemed guilty of a misdemeanor and, on conviction thereof in any district court of the United States within whose territorial jurisdiction such offense may have been committed, shall be punished by a fine not exceeding $500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

THE REGULATIONS

In pursuance of the foregoing law the following regulations are hereby prescribed to govern the use, administration and navigation of all waterways tributary to the Atlantic Ocean south of Chesapeake Bay and all waterways tributary

to the Gulf of Mexico east and south of St. Marks, Florida. The regulations apply to the following:

Waterways.—All navigable waters of the United States, natural or artificial, including bays, lakes, sounds, rivers, creeks, intracoastal waterways, as well as canals and channels of all types, which are tributary to or connected by other waterways with the Atlantic Ocean south of Chesapeake Bay or with the Gulf of Mexico east and south of St. Marks, Florida.

Locks.—All Government owned or operated locks and hurricane gate chambers and appurtenant structures in any of the above-described waterways.

United States property.—All river and harbor lands owned by the United States in or along the above-described waterways, including lock sites and all structures thereon, other sites for Government structures and for the accommodation and use of employees of the United States, and rights of way and spoil disposal areas to the extent of Federal interest therein.

Vessels and rafts.—The term "vessel" as used herein includes all floating things moved over these waterways other than rafts.

1. *Authority of district engineers.*—The use, administration and navigation of these waterways, Federal locks and hurricane gate chambers shall be under the direction of the officers of the Corps of Engineers, United States Army, detailed in charge of the respective sections, and their authorized assistants. The cities in which the U. S. District Engineers are located are as follows:

U. S. District Engineer, Norfolk, Virginia,
U. S. District Engineer, Wilmington, North Carolina,
U. S. District Engineer, Charleston, South Carolina,
U. S. District Engineer, Savannah, Georgia,
U. S. District Engineer, Jacksonville, Florida.

2. *Commercial statistics.*—*a.* As required by Section 11 of the River and Harbor Act of September 22, 1922, owners, agents, masters and clerks of vessels plying upon the above-described waterways shall submit a report on such activities for statistical purposes which must contain the following information:

Name of vessel.
Name and address of owner or operator.
Type of vessel—steam, motor, sail, barge, or other type.
Net registered tonnage—if not registered, approximate net tonnage.
Maximum draft at time of passage.
Number of passengers.
Cargo—by commodities, expressed in short tons, or other units by which such commodities are customarily measured, giving origin and destination.

b. All persons rafting and towing logs shall submit a report of their activities containing such information as may be called for by the District Engineer concerned.

c. The report should be presented to the lockmaster of the Federally operated locks for each trip made. Where no Federally operated lock is passed, they shall be mailed promptly to the District Engineer. On written request, persons or corporations making frequent use of these waterways may be granted permission to submit monthly statements in lieu of reports by trips. Reports may be submitted on forms furnished free of charge by the District Engineer.

3. *Bridges.*—*a. General.*—As required by law, and general regulations to govern the operation of drawbridges crossing all navigable waterways of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, except the Mississippi River and its tributaries, prescribed by the Secretary of War, all corporations or persons owning, operating and tending drawbridges shall provide the same with the necessary tenders and the proper mechanical appliances for the safe, prompt and efficient opening of the draw for the passage of vessels and other water craft. The owner shall keep the operating machinery of the draw in serviceable condition, and shall have the draw opened and closed at intervals frequent enough to make certain that the machinery is kept in proper condition for satisfactory operation. Bridges and fender systems shall be constructed and maintained so as to afford at all times reasonably free, easy and unobstructed navigation of the draw opening or the draw span. Any accident or damage to the bridge, the fenders or the operating mechanism, shall be promptly reported to the District Engineer, giving the cause and the probable period required for repairs. All bridges will be lighted in accordance with the rules and regulations of the Department of Commerce, Lighthouse Service.

b. Signals for drawbridges.—The signals for vessels desiring to pass bridges shall be those prescribed in the general regulations referred to above.

c. Passage through drawbridges.—Trains, wagons, and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall water craft or vessels be so manipulated as to hinder or delay the operation of a draw span, but all passage over, through, or under a drawbridge shall be prompt, to prevent unnecessary delay to either land or water traffic.

4. *Locks.*—*a. Authority.*—The locking of all vessels and rafts and their movements while in a lock, or in the approaches thereto, shall be under the direction of the lockmaster. The term "lockmaster" as used in these regulations, shall mean the lock official present who is in charge of the operation of the lock.

b. Signals.—Vessels desiring lockage in either direction shall give notice to the lockmaster at not more than three-quarters of a mile nor less than one-quarter of a mile from the lock, by two long and two short blasts of a whistle. When the lock is available, a green light, semaphore or flag will be displayed; when not available, a red light, semaphore or flag will be displayed. No vessels or rafts shall approach within 300 feet of any lock entrance unless signalled to do so by the lockmaster.

c. Precedence at locks.—Ordinarily, vessels or rafts arriving at the lock shall take precedence in order of their arrival, but in all cases, vessels belonging to the United States or employed on public work shall have precedence over all others; passenger vessels shall have precedence over freight vessels, individual vessels over tows or rafts. Small vessels will not be granted separate lockage when larger vessels are awaiting lockage, and they will be required to lock through with other vessels. When two vessels approach the lock from opposite directions at approximately the same time, preference will ordinarily be given to the one for which the lock is prepared. In all cases, the order of actual entry shall be determined by the lockmaster.

d. Entrance to and exit from locks.—No vessel or raft shall enter or leave the locks before being signalled to do so. While waiting their turns, vessels or rafts must not obstruct traffic and must remain at a safe distance from the lock. They shall take position in rear of any vessels or rafts that may precede them, and there arrange the tow for locking in sections if necessary. Masters and pilots of vessels or in charge of rafts shall cause no undue delay in entering or leaving the lock, and will be held to a strict accountability that the approaches are not at any time unnecessarily obstructed by parts of a tow awaiting lockage or already passed through. They shall provide sufficient men to move through the lock promptly without damage to the structures. Vessels or tows that fail to enter the locks with reasonable promptness after being signalled to do so will lose their turn.

e. Lockage of vessels.—Vessels must enter and leave the locks carefully at slow speed, must be provided with suitable lines and fenders, must always use fenders to protect the walls and gates, and when locking at night must be provided with suitable lights and use them as directed.

Vessels which do not draw at least six inches less than the depth on miter sills or breast walls, or which have projections or sharp corners liable to damage gates or walls, shall not enter a lock or approaches.

No vessel having chains or lines either hanging over the sides or ends, or dragging on the bottom, for steering or other purposes, will be permitted to pass a lock or dam.

Power vessels must accompany tows through the locks when so directed by the lockmaster.

No vessel whose cargo projects beyond its sides will be admitted to lockage.

Vessels in a sinking condition shall not enter a lock or approaches.

The passing of coal from flats or barges to steamers while in locks is prohibited.

Where special regulations for safeguarding human life and property are desirable for special situations, the same may be indicated by printed signs, and in such cases such signs will have the same force as other parts of these regulations.

The lockmaster may refuse to lock vessels which, in his judgment, fail to comply with these rules.

f. Lockage of rafts.—Rafts shall be locked through in sections as directed by the lockmaster. No raft will be locked that is not constructed in accordance with the requirements stated in section 6 hereafter. The party in charge of a raft desiring lockage shall register with the lockmaster immediately upon arriving at the lock and receive instructions for locking.

g. Number of lockages.—Tows or rafts locking in sections will generally be allowed only two consecutive lockages if one or more single vessels are waiting for lockage, but may be allowed more in special cases. If tows or rafts are waiting above and below a lock for lockage, sections will be locked both ways alternately whenever practicable. When there are two or more tows or rafts awaiting lockage in the same direction, no part of one shall pass the lock until the whole of the one preceding it shall have passed.

h. Mooring.—Vessels and rafts when in the lock shall be moored where directed by the lockmaster by bow, stern and spring lines to the snubbing posts or hooks provided for that purpose, and lines shall not be let go until signal is given for vessel or raft to leave. Tying boats to the lock ladders is prohibited.

The mooring of vessels or rafts near the approaches to locks except while waiting for lockage, or at other places in the pools where such mooring interferes with general navigation of the waterway is prohibited.

i. Maneuvering locks.—The lock gates, valves, and accessories will be moved only under the direction of the lockmaster; but if required, all vessels and rafts using the locks must furnish ample help on the lock walls for handling lines and maneuvering the various parts of the lock under the direction of the lockmaster.

5. *Waterways.—a. Fairway.*—A clear channel shall at all times be left open to permit free and unobstructed navigation by all types of vessels and rafts that normally use the various waterways or sections thereof. The District Engineer may specify the width of the fairway required in the various waterways under his charge.

b. Stoppage in waterway—anchorage or mooring.—No vessels or rafts shall anchor or moor in any of the land cuts or other narrow parts of the waterway, except in case of an emergency. Whenever it becomes necessary for a vessel or raft to stop in any such portions of the waterway it shall be securely fastened to one bank and as close to the bank as possible. This shall be done only at such a place and under such conditions as will not obstruct or prevent the passage of other vessels or craft. Stoppages shall be only for such periods as may be necessary.

No vessel or raft will be allowed to use any portion of the fairway as a mooring place except temporarily as authorized above without the written permission from the District Engineer.

When tied up, all vessels must be moored by bow and stern lines. Rafts and tows shall be secured at sufficiently close intervals to insure their not being drawn away from the bank by winds, currents or the suction of passing vessels. Tow lines shall be shortened so that the different parts of the tow shall be as close together as possible. In narrow sections, no vessel or raft shall be tied abreast of another.

Lights shall be displayed in accordance with provisions of the Federal Pilot Rules.

No vessel, even if fastened to the bank as above prescribed, shall be left without a sufficient crew to care for it properly.

Vessels will not be permitted to load or unload in any of the land cuts except at a regular established landing or wharf without written permission secured in advance from the District Engineer.

No vessel, regardless of size, shall anchor in a dredged channel or narrow portion of a waterway for the purpose of fishing, if navigation is obstructed thereby.

Except in cases of emergency the dropping of anchors, weights, or other ground tackle, within areas occupied by submarine cable or pipe crossings, is prohibited. Such crossings will ordinarily be marked by signboards on each bank of the shore or indicated on coast charts.

c. Speed.—Vessels shall proceed at a speed which will not endanger other vessels or structures and will not interfere with any work in progress incident to maintaining, improving, surveying or marking the channel.

Official signs indicating limiting speeds through critical portions of the waterways shall be strictly obeyed.

Vessels approaching and passing through a bridge shall so govern their speed as to insure passage through the bridge without damage to the bridge or its fenders.

A vessel being overtaken by another shall slacken speed sufficiently to permit the passage to be effected with safety to both vessels.

d. Assembly and handling of tows.—All vessels drawing tows not equipped with rudders shall use two tow lines or a bridle and shorten them to the greatest possible extent so as to have full control at all times. The various parts of a tow shall be securely assembled with the individual units connected by lines as short as practicable. If necessary, as in the case of lengthy or cumbersome tows or other tows in restricted channels, the District Engineer may require the installation of a rudder, drag or other approved steering device on the tow in order to avoid obstructing navigation or damaging the property of others, including aids to navigation maintained by the United States or under its authorization, by collision or otherwise.

No tow shall be drawn by a vessel that has insufficient power or crew to permit ready maneuverability and safe handling.

Tows desiring to pass a bridge shall approach the opening along the axis of the channel so as to pass through without danger of striking the bridge or its fenders. No vessel or tow shall navigate through a drawbridge until the movable span is fully opened.

In the event that it is evident to the master of a towing vessel that a tow cannot be safely handled through a bridge, it will be brought to anchor and the towed vessels will be taken through the bridge in small units, or singly if necessary, or the tow will wait until navigation conditions have improved to such an extent that the tow can pass through the bridge without damage.

e. Projections from vessels.—No vessel carrying a deck load which overhangs or projects over the side of said vessel, or whose rigging projects over the side of the vessel so as to endanger passing vessels, wharves or other property, will enter or pass through any of the narrow parts of the waterway.

f. Meeting and passing.—Vessels, on meeting or overtaking, shall give the proper signals and pass in accordance with Federal Pilot Rules. Rafts shall give to vessels the side demanded by proper signal. All vessels approaching dredges, or other plant engaged on improvements to a waterway, shall give the signal for passing and slow down sufficiently to stop if so ordered or if no answering signal is received. On receiving the answering signal, they shall then proceed to pass at a speed sufficiently slow to insure safe navigation.

6. *Rafts—logging.*—Rafts will be permitted to navigate a waterway only if properly and securely assembled. The passage of "bag" or "sack" rafts, "dog" rafts, or of loose logs over any portion of a waterway, is prohibited. Each section of a raft will be secured within itself in such a manner as to prevent the sinking of any log, and so fastened or tied with chains or wire rope that it cannot be separated

or bag out so as to materially change its shape. All dogs, chains and other means used in assembling rafts shall be in good condition and of ample size and strength to accomplish their purposes.

No section of a raft will be permitted to be towed over any portion of a waterway unless the logs float sufficiently high in the water to make it evident that the section will not sink en route.

Frequent inspections will be made by the person in charge of each raft to insure that all fastenings remain secure, and when any one is found to have loosened, it shall be repaired at once. Should any log or section be lost from a raft, the fact must be promptly reported to the District Engineer, giving as definitely as possible the exact point at which the loss occurred. In all cases the owner of the lost log or section will take steps immediately to remove the same from the waterway.

The length and width of rafts shall not exceed such maximum dimensions as may be prescribed by the District Engineer.

All rafts shall carry sufficient men to enable them to be managed properly, and to keep them from being an obstruction to other craft using the waterway. To permit safe passage in a narrow channel rafts will, if necessary, stop and tie up alongside the bank. Care must be exercised both in towing and mooring rafts to avoid the possibility of damage to aids to navigation maintained by the United States or under its authorization.

When rafts are left for any reason with no one in attendance, they must be securely tied at each end and at as many intermediate points as may be necessary to keep the timbers from bagging into the stream, and must be moored so as to conform to the shape of the bank. Rafts moored to the bank shall have lights at 500-foot intervals along their entire length. Rafts must not be moored at prominent projects of the bank, or at critical sections.

Logs may be stored in certain tributary streams provided a clear channel at least one-half the width of the channel be left clear for navigation along the tributary. Such storage spaces must be protected by booms and, if necessary to maintain an open channel, piling should also be used. Authority for placing these booms and piling must be obtained by written permit from the District Engineer.

The building, assembling, or breaking up of a raft in a waterway will be permitted only upon special authority obtained from the District Engineer, and under such conditions as he may prescribe.

7. *Dumping of refuse or oil in waterway, obstructions.*—Attention is invited to the provisions of Sections 13 and 20 of the River and Harbor Act of March 3, 1899, and of Sections 2, 3, and 4 of the Oil Pollution Act of June 7, 1924, appended hereto, which prohibit the depositing of any refuse matter in these waterways or along their banks where liable to be washed into the waters; authorize the immediate removal or destruction of any sunken vessel, craft, raft, or other similar obstruction, which stops or endangers navigation; and prohibit the discharge of oil from vessels into the coastal navigable waters of the United States.

8. *Damage.*—Masters and owners of vessels using the waterways are responsible for any damage caused by their operations to canal revetments, lock piers and walls, bridges, hurricane gate chambers, spillways, or approaches thereto, or other Government structures, and for displacing or damaging of buoys, stakes, spars, range lights or other aids to navigation. Should any part of a revetment, lock, bridge, hurricane gate chamber, spillway or approach thereto, be damaged, they shall report the fact, and furnish a clear statement of how the damage occurred, to the nearest Government lockmaster or bridge tender, and by mail to the District Engineer, U. S. Engineer Office, in local charge of the waterway in which the damage occurred. Should any aid to navigation be damaged, they shall report that fact immediately to the Superintendent of Lighthouses at Norfolk, Virginia, if north of New River Inlet, North Carolina; to the Superintendent of Lighthouses at Charleston, South Carolina, if between New River Inlet, North Carolina, and St. Lucie Inlet, Florida; to the Superintendent of Lighthouses at Key West, Florida, if between St. Lucie Inlet and Suwanee River, Florida; and to the Superintendent of Lighthouses, New Orleans, Louisiana, if between Suwanee River and St. Marks, Florida.

9. *Trespass on property of the United States.*—Trespass on waterway property or injury to the banks, locks, bridges, piers, fences, trees, houses, shops or any other property of the United States pertaining to the waterway, is strictly prohibited. No business, trading or landing of freight or baggage will be allowed on or over Government piers, bridges, or lock walls.

10. *Copies of regulations.*—Copies of these rules and regulations will be furnished free of charge upon application to the nearest District Engineer.

11. These regulations shall take effect and be in force on and after June 15, 1938, and shall supersede the following regulations:

Inland Waterway from Norfolk, Va., to Cape Fear River, N. C., and the Waterway from Norfolk, Va., to the Sounds of North Carolina, Including the Dismal Swamp.—Use, administration and navigation—Regulations prescribed May 31, 1933 (E. D. 7241 (Norfolk-Beaufort Inland Waterway)—1/2).

Cape Fear River, N. C.—Use, administration, and navigation—Regulations prescribed August 10, 1915 (E. D. 36369/173).

All Waterways Connecting with the Atlantic Ocean Between Little River Inlet and Coosaw River, S. C., Both Inclusive.—Navigation by rafts—Regulations prescribed September 28, 1928 (E. D. 7101 (South Carolina—W. W.)—3/1).

Congaree River, S. C.—Use and operation of lock and dam at Granby, near Columbia, S. C.—Regulations prescribed April 18, 1916 (E. D. 58968/32).

Waterways Emptying into Atlantic Ocean Between Coosaw River, S. C., and St. Johns River, Fla., Both Exclusive.—Navigation by rafts—Regulations prescribed January 29, 1925 (E. D. 7101 (Rafts—Logs)—2/1).

Savannah River, Ga.—Use, administration, and navigation of dam, Georgia-Carolina Power Co. at Stevens Creek—Regulations prescribed August 13, 1915 (E. D. 97467/12).

St. Lucie River and Canal, Fla., From Junction with the Intracoastal Waterway near St. Lucie Inlet to Lake Okeechobee.—Use, administration and navigation—Regulations prescribed Mar. 15, 1934 (E. D. 7241 (St. Lucie River)—1/2).

Miami River, Fla.—Navigation—Regulations prescribed September 15, 1932—(E. D. 7145 (Miami River, Fla.)—1/9).

Approved April 30, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1386; Filed, May 16, 1938; 9:44 a. m.]

MODIFICATION OF RULES AND REGULATIONS TO GOVERN THE OPENING OF THE MARYLAND STATE HIGHWAY BRIDGE ACROSS OAK CREEK, TALBOT COUNTY, MARYLAND

The regulations approved by the Acting Secretary of War, on June 28, 1924, to govern the opening of the Maryland State Highway drawbridge across Oak Creek, Talbot County, Maryland, are hereby extended to include the Baltimore, Chesapeake and Atlantic Railroad Company drawbridge, and the title thereof has been modified to read:

"Regulations to Govern the Opening of the Drawbridges of the Maryland State Roads Commission and the Baltimore, Chesapeake and Atlantic Railroad Company, across Oak Creek, Talbot County, Maryland".

Approved, May 4, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1385; Filed, May 16, 1938; 9:43 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 13]

IN THE MATTER OF THE PETITION OF MALLORY COAL CO., ATLANTIC SMOKELESS COAL CO., ASHLAND COAL & COKE CO., HANNA COAL CO. OF OHIO, JAMISON COAL & COKE CO., PITTSBURGH COAL CO., WESTMORELAND COAL CO., AND WHEELING COAL CO.

NOTICE OF AND ORDER FOR HEARING

The petitioners above named, having on the 11th day of May, 1938, petitioned this Commission to vacate its Ruling dated March 30, 1938, and to revoke its construction therein of Section 10 (a) of the Bituminous Coal Act of 1937 permitting the introduction in evidence at a hearing before the Commission of data with respect to 1936 costs of production of individual producers, notice is hereby given that the above entitled proceeding is assigned for hearing before the Commission, on May 25, 1938, at 10:00 o'clock, a. m. at the Hearing Room of the Commission, 734 Fifteenth Street, N. W., Washington, D. C., at which time an opportunity will be afforded interested parties to be heard.

The Secretary of the Commission is, forthwith, directed to mail a copy of this Notice of Hearing to the petitioners above named, to each code member and to the Consumers' Counsel, and shall cause a copy to be published in the FEDERAL REGISTER. A copy of the aforesaid petition is on file and available to interested parties for inspection at the Office of the Secretary of the Commission.

By Order of the Commission.

Dated this 13th day of May, 1938.

[SEAL] EDGAR C. FARIS, JR., *Acting Secretary.*

[F. R. Doc. 38-1379; Filed, May 14, 1938; 11:34 a. m.]

Office of Indian Affairs.

REGULATIONS GOVERNING THE DEPOSIT OF INDIAN FUNDS IN BANKS

MARCH 2, 1938.

AUTHORITY FOR DEPOSIT

SECTION 1. Indian moneys, individual or tribal, may be deposited in banks under authority of the acts of June 25, 1910 (36 Stat. 855), as amended (48 Stat. 648); May 25, 1918, (40 Stat. 591); and February 27, 1925 (43 Stat. 1008).

BANKS DEFINED

SEC. 2. For the purpose of these regulations, the word "banks" shall include state and national banks, and savings banks and trust companies doing a banking business.

APPLICATION

SEC. 3. Any bank desiring to qualify for deposits of Indian funds shall transmit to the Commissioner of Indian Affairs (or to the proper Superintendent if a call for bids has been issued) an application accompanied by a report in the form prescribed by the Comptroller of the Currency (or the State Banking Department) showing fully the condition of the bank on a day not more than one month prior to the date of such application. In making application, banks must state the maximum amount desired and the minimum that will be accepted, the rate of interest that will be paid, and the type of security that will be furnished. The following statement must be incorporated in the letter of application: This bank agrees that if designated a depositary, it will comply with the regulations of the Interior Department governing the deposit of Indian funds in banks and with such instructions as may from time to time be issued by the Commissioner of Indian Affairs.

QUALIFICATION

SEC. 4. In the selection of a bank to serve as a depositary, the following points will be given consideration:

1. Location with respect to the nearest Agency.
2. Financial condition.
3. Rate of interest and security offered.

SEC. 5. No bank will be considered for designation unless it has been in successful operation for one year and has accumulated a surplus equal to 10 per cent of the capital stock. This will not apply to banks offering United States bonds or notes as security.

SECURITY

SEC. 6. Under the acts of Congress cited herein, deposits of Indian funds are required to be secured by surety bonds (corporate or individual) or by bonds or notes of the United States. The following securities are classed as United States obligations: Panama Canal Loan Bonds, Treasury Bonds, and Treasury Notes. Bonds on which surety companies or individuals appear as sureties must be executed in triplicate on forms prescribed for the purpose, and each copy must be accompanied by a transcript of a resolution by the board of directors of the bank, authorizing the proper officers to execute the instrument. The bonds must be executed for a stipulated term of not less than 180 days. Such bonds, however, are continuing in nature and will remain in force beyond the stipulated period until canceled in accordance with the provisions contained therein.

SEC. 7. Whenever a bank receives notice from any source that its surety bond is to be canceled, it shall immediately arrange to submit substitute security which must reach the Indian Office and be approved ten days before the effective date of the cancellation notice. Any bank failing to furnish other security in accordance with the foregoing shall relinquish its deposit with accrued interest not later than the date of the tenth day preceding the effective date of the cancellation notice.

SEC. 8. *Corporate Sureties.*—Only those companies holding certificates of authority from the Secretary of the Treasury to write bonds on which the United States is obligee are acceptable as sureties.

SEC. 9. *Individual Sureties.*—Each person appearing as surety on a personal surety bond must qualify in an amount equal to twice the penalty of the bond. At least four individuals must act as sureties on each bond. Officers and directors of a bank furnishing a personal surety bond will not be accepted as sureties, nor will any person who is a bonded officer of the United States or a married woman.

SEC. 10. *Collateral Security.*—Banks pledging United States bonds or notes as security shall execute a deposit agreement on forms prescribed by the Commissioner of Indian Affairs and shall furnish a resolution of authority by the board of directors, authorizing the sale, assignment, or transfer of the collateral. The bonds or notes shall be either deposited with the Commissioner of Indian Affairs who will place them with the Treasurer of the United States for safekeeping, or sent direct to the Division of Securities, Office of the United States Treasurer, Treasury Department, to be held subject to the order of the Commissioner of Indian Affairs. In either case, receipt for the collateral will issue from the Indian Office. Registered bonds must be assigned in blank before shipment, and a resolution by board of directors, authorizing the assignment, must be filed with the Division of Loans and Currency, Treasury Department, on Treasury Department Form PD 1009 or Form PD 1010. All correspondence relating to the deposit, withdrawal, substitution, or exchange of securities shall be addressed to the Commissioner of Indian Affairs.

DEPOSITS

SEC. 11. Each bank that has been designated as a depositary, and has filed proper bond will be given a deposit in an amount equal to 95 per cent of the penalty of the bond, unless

it has been selected to carry an active checking account in which case the deposit will be limited to 90 per cent of the security. Upon receipt of the deposit from the disbursing agent, the bank shall immediately credit it to an account which must be opened under his name and official title. The deposit shall be subject to withdrawal in accordance with the terms of the depositary's surety bond or its deposit agreement.

SEC. 12. Time certificates of deposit, running for definite periods during which deposits are not subject to check, are not acceptable. The terms of any such instruments issued contrary to these regulations will be considered void and of no effect.

PAYMENT OF INTEREST

SEC. 13. Except as to depositaries for funds of the Osage and Five Civilized Tribes Agencies, each bank carrying a deposit shall credit interest thereon at the agreed rate to the account of the disbursing agent at the close of June 30, and December 31 of each year. Banks carrying deposits in the names of the disbursing agents of the Five Civilized Tribes and Osage Agencies shall credit interest to their accounts at the close of April 30 and October 31 of each year. Within five days after the close of the interest period, the amount credited to the account of a disbursing agent shall be remitted to him by draft unless he has previously arranged to withdraw it by check. Any bank delinquent in the payment of interest shall be liable for interest on the overdue amount.

SEC. 14. In the event that a deposit or any part thereof is withdrawn during an interest period by reason of the cancellation of a bond, interest which has accrued on the amount so withdrawn shall immediately be credited and promptly remitted to the disbursing agent by draft unless included in his check or covered by separate check.

REPORTS

Statement of Disbursing Account (Form 5–308)

SEC. 15. Each depositary for Indian funds shall furnish monthly statements of receipts and paid checks on Form 5–308 (and Form 5–308a, if extra space is needed.) Paid checks will be listed thereon in numerical order, showing for each check its date, number, and amount. These statements will be prepared in triplicate for each disbursing officer having funds to his official credit. A duplicate copy will be forwarded to the disbursing officer in charge of the unit for reconciliation within ten days after the close of the month. The disbursing officer will make a prompt comparison with his records, and after adjusting any errors found with the bank, the latter will immediately forward the original statement and paid checks directly to the *General Accounting Office, Audit Division, Washington, D. C.* The triplicate copy of the statement will be retained in the bank's files.

SEC. 16. In no case will the depositary send the paid checks to the disbursing officer nor should the statement and checks be sent to or routed through the Indian Office.

SEC. 17. Statements will be required of both time and checking depositaries so long as any balance of Indian moneys remain on deposit and must be furnished for fractional parts of a month whenever a change of disbursing officers takes place or a new bond (disbursing agent's) becomes effective before the end of a month.

SEC. 18. Depositaries should apply to disbursing officers for a supply of the necessary forms.

Statement of Deposits (Form 5–302)

SEC. 19. Each bank having a deposit not actively checked against shall submit semiannually, within five days after the close of June 30, and December 31, of each year, to the officer in whose name the deposit is carried, a statement in duplicate on Form 5–302. After comparing the statement with his records, the officer will forward the original to the Indian Office if it is found correct.

SEC. 20. Banks carrying active checking accounts shall submit the statements within five days after the close of each month.

SEC. 21. Depositaries should apply to the Indian Office for Form 5–302.

REPORT OF CONDITION

SEC. 22. When called for by the Commissioner of Indian Affairs, a report of financial condition shall be submitted by each depositary. A copy of the report made to the Comptroller of the Currency (or the State Banking Department) will suffice if not more than one month has elapsed since such report. If a longer period has elapsed, current figures shall be given, but in the same form. No printed forms are provided by the Department for the submission of the reports.

CHECKS

SEC. 23. Each bank designated as a depositary shall furnish the disbursing agent, without charge, an adequate supply of blank checks.

SEC. 24. Checks to be supplied by banks carrying active checking accounts must be printed in accordance with instructions from disbursing agents.

MISCELLANEOUS

SEC. 25. No bank in which Indian funds are deposited shall charge or receive any exchange or other fees or compensation on account of the cashing or collection of any checks or drafts or the performance of any other service for disbursing agents.

SEC. 26. Depositaries shall render such statements and give such information as properly accredited inspecting and administrative officers may request.

SEC. 27. Any bank which shall fail to comply with these regulations shall be liable to be disqualified.

SEC. 28. These regulations shall become effective upon the date of approval and shall supersede regulations on the same subject approved February 17, 1931.

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner.

Approved, March 5, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38–1384; Filed, May 16, 1938; 9:41 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

ALLOTTING THE DIRECT-CONSUMPTION PORTION OF THE 1938 SUGAR QUOTA FOR PUERTO RICO

NOTICE OF PROPOSED ORDER

Notice is hereby given of a proposed order, set forth below, of the Secretary of Agriculture revising the allotments made in Puerto Rico Sugar Order No. 10, issued April 19, 1938, allotting that portion of the 1938 Puerto Rican sugar quota for shipment to the continental United States which may be filled by direct-consumption sugar. The proposed order is based on evidence presented to the Secretary of Agriculture at the hearings held in Washington, D. C. on January 14, 1938, and May 3, 1938.

Objections to the proposed order should be filed with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., on or before 4.30 P. M. May 24, 1938.

H. A. WALLACE,
Secretary of Agriculture.

PROPOSED DECISION AND ORDER OF SECRETARY OF AGRICULTURE

General Sugar Quota Regulations, Series 5, No. 1, issued by the Secretary of Agriculture on December 20, 1937, pursuant to the Sugar Act of 1937 (hereinafter referred to as the "act"), provide that the 1938 Puerto Rican sugar quota for shipment to the continental United States may be filled by shipments of direct-consumption sugar not in excess of 126,033 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that

the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe. On December 31, 1937, the Secretary, pursuant to General Sugar Regulations, Series 2, No. 2, issued a notice of a public hearing to be held in Washington, D. C., on January 14, 1938, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the Puerto Rican sugar quotas among interested persons and such other evidence as might be pertinent to the exercise of the powers vested in the Secretary under section 205 (a) of the act.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. The notice of Hearing and Designation of Presiding Officers issued by the Secretary on December 31, 1937, provided in part as follows:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar, pursuant to section 207 (b) of said act) and the 1938 sugar quota for Puerto Rico for local consumption, established pursuant to section 202 and 203, respectively, of the said act is necessary to prevent disorderly marketing and importation of such sugar * * *."

The preliminary finding was based upon information which the Secretary had to the effect that Puerto Rican processors were in a position to manufacture and make available for market a potential supply of approximately 400,000 short tons of direct-consumption sugar during the calendar year 1938.

The hearing was held at Washington, D. C., on the date specified in the notice. The evidence presented at the hearing indicated that the preliminary finding of the Secretary should be confirmed. Such evidence indicated a plant capacity of 401,500 short tons for all processors in Puerto Rico. The total amount of such sugar which may be shipped to continental United States under the act is limited to 126,033 short tons. Under these conditions, it was deemed probable that, without allotment of the direct-consumption portion of the quota, more raw sugar would be processed into direct-consumption sugar than could be shipped to the continental United States during any calendar year. This, it was concluded, would result in disorderly marketing of sugar.

On March 30, 1938, the Secretary issued Puerto Rico Sugar Order No. 9, allotting that portion of the 1938 Puerto Rican sugar quota for shipment to the continental United States which may be filled by direct-consumption sugar. On April 19, 1938, the Secretary issued Puerto Rico Sugar Order No. 10, which superseded the order of March 30, 1938, and which contains allotments identical with those made in the first order, together with a full statement of the facts and grounds for his decision.

Section 205 (a) of the act provides in part that:

> Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him. The Secretary may also, upon such hearing and notice as he may by regulations prescribe, revise or amend any such allotment upon the same basis as the initial allotment was made.

On April 26, 1938, the Secretary issued a notice of a public hearing to be held in Washington, D. C., on May 3, 1938, for the purpose, among others, of receiving evidence to enable him to revise or amend Puerto Rico Sugar Order No. 10 in accordance with the provisions of section 205 (a) of the act. The hearing was held on May 3 as specified in the notice and was concluded on May 4. The following companies interested in marketing direct-consumption sugar in the continental United States during 1938 were represented at the hearing:

Porto Rico American Sugar Refinery,
Central Aguirre,
Central Guanica,
Central Igualdad,
Central Roig,
Camuy Sugar Co.

Puerto Rico Sugar Order No. 10 states the basis for allotments therein made as follows:

"The first standard stated above for the Secretary to use in making allotments, namely, processings to which proportionate shares established under section 302 (b) of the act pertain, is inapplicable to the allotment of that portion of the quota which may be filled by direct-consumption sugar.

"The other two standards given in the act, namely, 'past marketings' and 'ability * * * to market', are applicable and should both be used in making individual allotments, in order to provide a fair, efficient, and equitable distribution of the portion of the quota under discussion.

"In determining 'ability * * * to market', it is apparent that mill capacity alone cannot be taken as an accurate measure. That factor represents only a potential ability to produce sugar, dependent upon a number of other factors, such as the availability of raw sugar, the price of raw materials, transportation costs, and similar factors. An additional factor must be used in order to arrive at a true measure of ability to market. It is believed that the ratios of each processor's current marketings of sugar to the total of such marketings should be considered and given equal weight with the ratios of each processor's mill capacity to the total mill capacity for all processors. Since the hearing was held on January 14, 1938, it would be possible to take 1937 marketings as indicating the processor's current ability to market, but this method would be unfair to processors marketing direct-consumption sugar for the first time in 1938. In order, therefore, to be fair to both new and old processors, and in order to obtain as accurate a measure of present ability to market as possible, it is necessary to take marketings of direct-consumption sugar during the present calendar year. During the first three months of the current year, no allotment order was in effect and processors were not restricted in their shipments of direct-consumption sugar to the United States, and since there was reason to believe that allotments would be made, processors had an incentive to hasten shipments prior to the making of such allotments. Hence the official data of the Department showing actual entries against such quota during the period from January 1, 1938, to March 22, 1938 (the date of final preparation of Puerto Rico Sugar Order No. 9), are believed to constitute a necessary factor in determining actual ability to market sugar. This factor, along with that of mill refining capacity, is therefore deemed to be a fair measure of the present ability to market sugar."

Since section 205 (a) of the act requires that the Secretary, in revising or amending an allotment order, use the same basis used in making the initial allotment, it is necessary in this Order to apply the same basic formula as was used in Puerto Rico Sugar Order No. 10.

The evidence presented at the hearings of January 14 and May 3 in regard to mill refining capacity in terms of short tons, refined value, may be summarized as follows:

Porto Rico American Sugar Refinery.—700 to 800 tons per day (pages 29, 48, 62, 65 and 324 of record of hearing held on May 3).

Central Aguirre.—8000 to 9000 tons per annum (page 125 of record of hearing held on January 14).

Central Guanica.—50,000 tons per annum (page 128 of record of hearing held on January 14).

Central Igualdad.—220 tons per day (pages 103, 194, and 199 of record of hearing held on May 3).[1]

Central Roig.—210 tons per day (page 273 of record of hearing held on May 3).[2]

No testimony was given either at the hearing of January 14 or of May 3 bearing on the mill refining capacity of Central Carmen and Central San Francisco. It is, therefore, necessary to take 1936[3] entries of direct-consumption sugar into the continental United States as the mill capacity for these companies. In 1936, Central Carmen brought into the continental United States 264 short tons, raw value, of direct-consumption sugar, or 247 short tons, refined value, and Central San Francisco brought in during the same year 2,590 short tons, raw value, of direct-consumption sugar, or 2,421 short tons, refined value. (Government Exhibit No. 3.)

The actual quantities of Puerto Rican direct-consumption sugar certified for entry into the continental United States between January 1, 1938, and March 22, 1938 (Government Exhibit No. 3), were as follows:

	Short tons, raw value
Porto Rico American Sugar Refinery	46,868
Central Aguirre	1,970
Central Carmen	
Central Guanica	
Central Igualdad	1,124
Central Roig	8,070
Central San Francisco	795
	58,825

In determining "past marketings" for processors which have shipped direct-consumption sugar to the continental United States, it is believed that the years 1935, 1936, and 1937 should be used, since they are years during which a quota system was in effect and, consequently, are believed to be fair and reasonable under a restrictive program such as that provided for under the present and prior sugar legislation. The marketing history for these years (Government Exhibit No. 3) is as follows:

	Puerto Rican direct-consumption sugar entries (refined and turbinado) for consumption in the United States (in terms of short tons, raw value)		
	1935	1936	1937
Porto Rico American Sugar Refinery	116,611	109,945	97,498
Central Aguirre	2,719	2,496	5,767
Central Carmen		264	
Central Guanica	1,015		
Central Igualdad	163	438	52
Central Roig		2,778	16,204
Central San Francisco	2,463	2,590	1,981
	122,971	118,511	121,502

[1] The record of the hearing held on January 14 indicated a maximum capacity of 225 tons per day, but the same witness who testified in regard to plant capacity at the first hearing testified at the hearing of May 3 (page 199 of record) that 200 to 225 tons per day is more nearly correct. In view of the fact that a test run has shown 220 tons per day (page 103 of record of hearing held on May 3), this figure is taken as the rated mill capacity instead of 212.5 tons per day which would be taken in the absence of testimony showing actual performance in excess of that figure.

[2] Although the record of the hearing on January 14 indicated a rated plant capacity of 200 tons per day (pp. 170 and 174 of record), the fact that the company has actually exceeded that figure indicates that the rated capacity should be something in excess of 200 tons per day. The testimony shows (page 273 of record of hearing held on May 3) that the company has actually produced an average of 210 tons of sugar per day over a period of several days. Hence 210 tons per day is taken as the rated plant capacity.

[3] Being the year in which Centrals Carmen and San Francisco brought in more direct-consumption sugar than in any other year of the period 1935–1937, inclusive. (Government Exhibit No. 3.)

It is deemed desirable to reserve 5,712 short tons of sugar to be set aside for persons who bring in raw sugar from Puerto Rico for direct-consumption purposes, which amount represents the average quantity of such sugar brought in during the years 1935–1937, inclusive. It is not practicable to allot this quantity of sugar to individual processors, inasmuch as it would have to be allotted to 34 raw sugar processors, thereby rendering it impossible to make an efficient allotment as required by the act. An allotment would require continental purchasers of raw sugar for direct consumption to deal with a large number of sellers in order to obtain their requirements. Such disruption of customary trade practices could not reasonably be said to be an efficient distribution of this kind of sugar as required by the act.

On the basis of the record of the hearings held on January 14, 1938, and May 3, 1938, I hereby find:[1]

1. That the Puerto Rican processors of direct-consumption sugar are equipped to produce 415,168 short tons[2] of sugar during the calendar year 1938.

2. That the present plant capacity of each Puerto Rican processor of direct-consumption sugar is as follows:

Processor:	*Rated refining capacity per annum, 300-day basis*
Porto Rico American Sugar Refinery	225,000
Central Aguirre	8,500
Central Carmen	247
Central Guanica	50,000
Central Igualdad	66,000
Central Roig	63,000
Central San Francisco	2,421
	415,168

3. That the quantities of direct-consumption sugar certified for entry into the continental United States from Puerto Rico between January 1, 1938, and March 22, 1938, were as follows:

Processor:	*Short tons, raw value*
Porto Rico American Sugar Refinery	46,868
Central Aguirre	1,970
Central Carmen	
Central Guanica	
Central Igualdad	1,124
Central Roig	8,070
Central San Francisco	795

4. That during the years 1935, 1936, and 1937, Puerto Rican processors brought direct-consumption sugar (refined and turbinado) into the continental United States for consumption therein in the following amounts:

	Puerto Rican direct-consumption sugar entries (refined and turbinado) for consumption in the United States (in terms of short tons, raw value)		
	1935	1936	1937
Porto Rico American Sugar Refinery	116,611	109,945	97,498
Central Aguirre	2,719	2,496	5,767
Central Carmen		264	
Central Guanica	1,015		
Central Igualdad	163	438	52
Central Roig		2,778	16,204
Central San Francisco	2,463	2,590	1,981
	122,971	118,511	121,502

On the basis of the foregoing, I hereby determine and conclude that the allotment of that portion of the 1938 Puerto Rican sugar quota which may be filled by shipments of direct-consumption sugar is necessary in order to prevent disorderly marketing of sugar, and that in order to make a fair, efficient, and equitable distribution of such sugar, as required by section 205 (a) of the act, allotments

[1] Since section 205 (a) of the act requires that allotment be made "to persons who market or import sugar", no allotment can be made to Camuy Sugar Company, inasmuch as that company is not engaged in the manufacture of direct-consumption sugar at the present time.

[2] 300 working days per year.

should be made by giving equal weight to (1) past marketings during the years 1935, 1936, and 1937, and (2) ability to market, measured by giving equal weight to present plant capacity and the quantities of direct-consumption sugar certified for entry into the continental United States between January 1, 1938, and March 22, 1938.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

1. That the allotments contained in Puerto Rico Sugar Order No. 10 shall be, and they are hereby, revised, and the said quantity of 126,033 short tons, raw value, of direct-consumption sugar is hereby allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor:	*Direct-consumption allotment (short tons, raw value)*
Porto Rico American Sugar Refinery	93,975
Aguirre	3,443
Carmen	62
Guanica	3,791
Igualdad	5,465
Roig	11,837
San Francisco	1,743
	120,321
Unallotted reserve for marketings of raw sugar for direct consumption	5,712
Total	126,033

2. That the above-named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1938, any direct-consumption sugar (except the above-mentioned amount of raw sugar used for direct consumption) from Puerto Rico in excess of the marketing allotments set forth in the next preceding paragraph.

3. That this order shall supersede Puerto Rico Sugar Order No. 10, issued by the Secretary on April 19, 1938.

[F. R. Doc. 38-1382; Filed, May 14, 1938; 12:42 p. m.]

Bureau of Animal Industry.

NEBRASKA STOCKGROWERS ASSOCIATION AUTHORIZED TO CONDUCT BRAND INSPECTION

By virtue of the authority vested in the Secretary of Agriculture by an Act of Congress approved June 4, 1936, (Public No. 637, 74th Congress, entitled "An Act Making Appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1938, and for other purposes," and upon a written request made to and filed with the Secretary of Agriculture by the Nebraska Stockgrowers Association, a livestock association duly organized under the laws of the State of Nebraska, I, H. A. Wallace, Secretary of Agriculture, do hereby authorize, with respect to livestock originating in or shipped to market from that part of the State of Nebraska located west of the line described as follows:

Beginning at the South Dakota line running south along the east border of Boyd, Holt and Wheeler counties, then west along the south border of Wheeler and Garfield counties, then south along the east border of Custer county, then west along the south border of Custer county, then south along the east border of Dawson county, then west along the south border of Dawson county, then south along the east border of Frontier county, then west along the south border of Frontier county, then south along the east border of Red Willow county to the Kansas State line,

the charging and collection of a reasonable fee, to be paid by the owners of the livestock inspected, for the inspection of brands appearing upon livestock sold or offered for sale at those markets at which said Association may register as a market agency, such inspection to be made to determine the ownership of the livestock. Such inspection and charging and collection of fees shall be subject to the provisions of the Packers and Stockyards Act and such reasonable regulations as the Secretary may from time to time prescribe.

In witness whereof, the Secretary of Agriculture has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 13th day of May, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1383; Filed May 14, 1938; 12:25 p. m.]

Food and Drug Administration.

[Service and Regulatory Announcements—Naval Stores No. 1]

REVISION OF THE RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE NAVAL STORES ACT OF MARCH 3, 1923

Pursuant to the authority vested in the Secretary of Agriculture by section 4 of the Naval Stores Act, approved March 3, 1923 (42 Stat. 1435; 7 U. S. C., secs. 91-99), entitled "An Act establishing standard grades of naval stores, preventing deception in transactions in naval stores, regulating traffic therein, and for other purposes," the following rules and regulations for the administration and enforcement of the statute are hereby promulgated.

These regulations supersede those contained in U. S. Department of Agriculture Miscellaneous Circular 22, dated March 1, 1924, and all supplements and amendments thereto, and shall become effective June 1, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

May 14, 1938.

The term "naval stores" is a trade name used to describe a group of related agricultural raw materials, having more or less complex chemical composition, of which the more important members are spirits of turpentine and rosin. They are obtained from the pine tree principally, or from the wood thereof, by any of several different processes. About sixty percent of the world's supply is obtained from the longleaf yellow pines and slash pines growing in the South Atlantic and Gulf States. The Naval Stores Act of March 3, 1923, may be considered as having four primary purposes: (1) to regulate interstate traffic in turpentine and rosin and to prohibit fraud and deception in the sale of same; (2) to set up standards and standard grades for naval stores, in accordance with which all naval stores must be sold and designated; (3) to provide for the preparation of type standards for naval stores, principally rosin, and duplicates thereof, for use by the industry in the classification and grading of such articles; and (4) to authorize the analysis, classification, and grading of naval stores by the Department of Agriculture for and at the request of a party at interest therein, such as producer, dealer, or buyer. The accompanying regulations have been prepared to supply the trade and those interested in naval stores with information as to the scope, interpretation, and methods of carrying into effect the various provisions of the act.

RULES AND REGULATIONS FOR ENFORCEMENT OF THE NAVAL STORES ACT OF MARCH 3, 1923

Regulation 1. Short Title of the Act

The "act establishing standard grades of naval stores, preventing deception in transactions in naval stores, regulating traffic therein, and for other purposes," approved March 3, 1923, (42 Stat. 1435; 7 U. S. C., 91-99) shall be known and referred to as the Naval Stores Act.

Regulation 2. Definition of Terms Used in the Regulations

(a) *Secretary.*—Secretary of Agriculture of the United States.

(b) *Department.*—United States Department of Agriculture.

(c) *Administration.*—Food and Drug Administration of the United States Department of Agriculture.[1]

(d) *Chief of Administration.*—Chief of the Food and Drug Administration.

(e) *Naval Stores.*—Spirits of turpentine and rosin, as defined in the Act.

(f) *Standards.*—The Official Naval Stores Standards of the United States for turpentine and rosin.

(g) *Duplicates of United States rosin standards, or standard types.*—Combinations of colored glasses prepared and distributed by the Secretary of Agriculture for use as standards for grading rosin.

(h) *Analysis.*—Any examination by physical, chemical or sensory methods.

(i) *Classification.*—Designation as to kind of spirits of turpentine or rosin.

(j) *Grading.*—Determination of the grade of rosin, in accordance with the standards.

(k) *Inspector.*—Any person who is employed by the Secretary of Agriculture to sample, examine, classify and grade naval stores.

(l) *Analyst.*—Any person in the employ of the Department of Agriculture designated by the Chief of Administration to analyze, classify, and/or grade naval stores.

(m) *Person.*—An individual, partnership, association, or corporation.

(n) *Interested person.*—(1) Any person who is a party to a factual or prospective transaction in a specific lot of naval stores either as seller, shipper, dealer in, or purchaser thereof; or (2) any person who is deemed by the Chief of Administration to have sufficient and proper interest in or contact with the grading and sale of rosin to merit the loan and use of duplicates of the United States rosin standards.

(o) *Package.*—Any container of naval stores, including barrel, can, drum, tank car, or other receptacle.

(p) *Certificate.*—The report made under the provisions of the Act on a form provided therefor, to show the results of any analysis, classification, or grading of naval stores made under authority and direction of the Secretary.

(q) *Lot.*—The quantity of naval stores, or any part thereof, covered by any invoice rendered to cover the sale thereof, or quantity covered by any one bill of lading or other shipping document.

(r) *Commerce.*—The movement or transfer of (a) any article subject to the Act, or (b) money in payment for such article, or (c) any document, invoice, paper, record, or other legible matter pertaining thereto; (1) between any place in any state, territory or possession, or the District of Columbia, and any place in another state, territory, or possession or the District of Columbia; (2) within any territory, possession or the District of Columbia; (3) between points in the same state or territory which involves passage through a place outside thereof; (4) to or from any foreign country.

Regulation 3. Scope of the Act

The Naval Stores Act:

(a) Defines "naval stores" as meaning spirits of turpentine and rosin.

(b) Provides classifications for the various kinds of spirits of turpentine and rosin, based on certain characteristic properties of their peculiar components which result from the kind of raw material used and from the method whereby the article was produced.

(c) Establishes standards of identity for the various kinds of spirits of turpentine in accordance with such classification.

(d) Establishes standard grades for rosin under specific designations, and provides for the preparation of standard types therefor, for use in determining the grade of rosin.

(e) Provides for the establishment of new standards and the modification of existing standards for naval stores.

(f) Requires that naval stores or anything offered as such, when sold in interstate or foreign commerce, or in the District of Columbia, territories or possessions of the United States, shall be described and referred to in accordance with the standards provided therefor.

(g) Prohibits the sale of any naval stores under or by reference to a United States standard which is other than what it is designated or represented to be.

(h) Prohibits the use of (1) the word "turpentine" or the word "rosin" alone or in combination with other words; or (2) any abbreviation, derivative, or imitation of either of these words; or (3) any word, combination of words, letter, or combination of letters which has been provided by the Act, or by the Secretary of Agriculture under the Act, as a standard for naval stores; in selling, offering for sale, advertising, or shipping any article which is other than an article of naval stores conforming with the United States Standards.

(i) Prohibits the use of any false, misleading, or deceitful means or practice either in the sale or which may bring about the sale of any naval stores, or of anything offered as such, in commerce.

(j) Provides for the analysis, classification, or grading of naval stores by the Department of Agriculture, when practicable, at the request of a party at interest, and the certification of the results of such examination under regulations and fees prescribed by the Secretary.

(k) Authorizes the preparation of the United States standards or standard types for rosin, and duplicates thereof, in the Department of Agriculture, and the furnishing, when practicable, of such duplicates to interested persons requiring same, under regulations prescribed by the Secretary.

Regulation 4. Standards for Spirits of Turpentine

(a) Spirits of turpentine shall be deemed to be the light, colorless or but faintly colored volatile oil, having a characteristic odor and taste, which occurs naturally in and has been obtained from secretions (1) taken from living trees of the family *Pinaceae* or (2) existing in the wood of species thereof, and which consists principally of terpene hydrocarbons of the general empirical formula $C_{10}H_{16}$.

(b) Until other standards are established and promulgated by the Secretary the standards of identity for spirits of turpentine within the purview of the Naval Stores Act are as follows:

(1) Gum Spirits of Turpentine, the kind of spirits of turpentine obtained by distillation of the oleoresin (gum) from living trees, and commonly known prior to passage of the Act as gum spirits of turpentine, gum turpentine, spirits of turpentine, or oil of turpentine.

(2) Steam Distilled Wood Turpentine, the kind of spirits of turpentine obtained by steam distillation from the oleoresinous component of wood whether in the presence of the wood or after extraction from the wood, and commonly known prior to passage of the Act as steam distilled wood turpentine.

(3) Destructively Distilled Wood Turpentine, the kind of spirits of turpentine prepared from the distillate obtained in the destructive distillation (carbonization) of wood, and commonly known prior to passage of the Act as destructively distilled wood turpentine.

(4) Sulphate Wood Turpentine, the kind of spirits of turpentine prepared from the condensates recovered in the sulphate process of cooking wood pulp, and commonly known as sulphate wood turpentine.

Regulation 5. Standards for Classification and Grading of Rosin

(a) "Rosin" shall be the vitreous, properly strained, more or less clear and transparent or translucent, brittle mass,

[1] The administration of the Naval Stores Act was formerly assigned to the Bureau of Chemistry.

congealed from the molten condition, consisting chiefly of resin acids, with relatively small proportions of resin or other esters and of non-acid, non-crystalline resenes (except that rosin obtained as described in (2) hereinbelow may contain not more than a very small percentage of fatty acids or fatty substances which naturally occur in and have been extracted from the wood with the rosin),

(1) Which remains as gum rosin, the residue after the distillation of the volatile oil from the oleoresin (gum) obtained from living pine or other coniferous trees; or

(2) Which is recovered as wood resin (after the distillation of the volatile oil from the oleoresin within or removed from the wood of such trees) by chemical or physical means followed by necessary further refinement.

(b) Rosin may occur also in the form of a vitreous, more or less opaque and crystalline mass formed by crystallization of the resin acids in the product described in paragraph (a) hereof. Resin acids which have been separated or removed by any process, from a mixture of resinous and other material are not "rosin" within the meaning of the Act.

(c) Until other standards are established and promulgated by the Secretary, the standards for rosin are (1) the standard types authorized by the Act; (2) the standards and types thereof established and promulgated by the Secretary as standards for rosin; and (3) the standard for "OPAQUE" rosin.

(d) In accordance with such standards and types of such standards, the various grades of rosin from highest to lowest shall be designated, unless and until changed, by the following letters respectively: X, WW, WG, N, M, K, I, H, G, F, E, D, B; also FF and OP; together with the designation "gum rosin" or "wood rosin", as the case may be.

(e) An article consisting of rosin and an excessive amount of visible extraneous foreign material, or an article which is of such appearance, so as not to permit its accurate classification and grading in accordance with the standards for rosin, shall not be classified, graded, marked, sold or offered for sale as rosin.

Regulation 6.—Establishing New or Modified Standards

(a) Whenever in the opinion of the Secretary a standard is necessary for any naval stores for which no standard is provided, or whenever, for reasons deemed by him sufficient, the interests of the trade require a modification of an existing standard, opportunities to be heard will be given those favoring or opposing the proposed standard or proposed modification of a standard. When the hearing is to be called for consideration of new standards, 3 months' notice in advance of the hearing will be given; when the hearing is to be called for consideration of the modification of an existing standard, 6 months' notice in advance of the hearing will be given.

(b) When a standard is established for any naval stores for which no standard had theretofore been provided, such standard shall become effective after 3 months from the date of the promulgation thereof; when an existing standard is modified, such modification shall become effective after 6 months from the date of the promulgation thereof.

Regulation 7. Loan and Care of Duplicates of United States Rosin Standards

(a) Duplicates of the United States rosin standards shall not be sold, but shall remain the property of the Department. They may be loaned by the Department to interested persons when the Chief of Administration determines it practicable to do so, and shall be surrendered promptly at his request by any person to whom the same may have been loaned.

(b) Duplicates of the United States rosin standards may be furnished without prior deposit of security, so far as the supply in the possession of the Department will permit:

(1) To any state or local official duly authorized and regularly appointed to inspect and grade rosin, and who has been approved by the Chief of Administration for receipt thereof, and to such trade organizations as shall in the opinion of the Chief of Administration require same; and

(2) To any bonafide naval stores dealer or distributor, approved by the Chief of Administration to act as a depository of such duplicates, who maintains a regular naval stores yard or yards, the facilities of which are available to and regularly used by the public for the purpose of having rosin inspected, classified, and graded; provided, that an annual rental fee of $4.00 shall be paid in advance, for each set of duplicates received under this subsection. Not more than two sets of duplicates shall be so furnished, without full security therefor, to any one such naval stores dealer or distributor.

(c) Duplicates of the United States rosin standards may be furnished to interested persons or corporations other than those specified in paragraph (b) hereof, on deposit with the Department of security in the sum of $100.00 in cash, or by certified check, post office or express money order payable to "U. S. Department of Agriculture."

(d) Any interested person desiring the loan of duplicates of the United States rosin standards shall submit a request, properly signed, on the form provided therefor by the Department, to be had on application. He shall therein submit such information as will show he is entitled to receive such duplicates; assure their safekeeping, care, proper use and prompt return on demand of the Chief of Administration; agree to reimburse the United States for the cost of repairing any damage to said duplicates or of replacing any or all of them, if for any reason they cannot be returned to the Department in like good order as received; provided, that in case security has been posted, he shall further authorize the Department to reimburse the United States for any such costs, not otherwise paid for, out of the security held for the loan of said duplicates.

(e) If any interested person to whom a set of duplicates has been issued under paragraph (b) hereof shall request or need another set of duplicates to replace such set and shall be unable to return such set, said person shall be required to deposit the security provided in paragraph (c) hereof prior to receiving such replacement duplicates. In case of recovery of the set previously provided or any part thereof, it shall be surrendered for inspection, repair, or replacement if necessary; and after the cost thereof has been determined and paid, such set will be returned to the interested person, whereupon the other set shall be surrendered and the security returned to the person posting same.

(f) In case any duplicates are damaged, or any or all are missing, the party to whom such duplicates have been loaned shall promptly advise the Administration in writing, stating what damage or loss was sustained and how the same occurred. The Department shall take prompt action to recover the duplicates or any missing parts thereof. When the necessary repairs are made or the missing parts supplied, the full set, if desired, may be returned to the party to whom it was originally furnished.

(g) The cost of making any necessary repairs to any duplicates of the rosin standards or of replacing any duplicates damaged beyond repair, or any missing duplicates, shall be determined by the Chief of Administration, and the party to whom loaned advised of such cost. Payment to cover the cost of such replacement shall be made prior to the return thereof.

(h) On the death of any person or dissolution or reorganization of any partnership, firm or corporation holding any set of duplicates of the United States rosin standards, the same shall be promptly surrendered to the Department by the holder thereof.

(i) The security received from persons to whom duplicates of the United States rosin standards have been loaned under paragraphs (c) or (d) hereof will be held for the Department in its special deposit account, and will be returned to the person from whom received, or his legal representative, on surrender of the duplicates secured thereby; provided, that before refund is made there shall be deducted the cost of any repairs or replacements.

(j) All moneys received or withheld to cover the cost of repairs to or of replacing any missing parts of any set of duplicates or as rental of duplicates shall be paid into the United States Treasury as miscellaneous receipts.

Regulation 8. Inspectors

(a) Inspectors may be assigned to such places as may be necessary for the enforcement of the Act and these regulations.

(b) Inspectors shall sample, examine, classify and grade naval stores at the request of an interested person in compliance with the Act and these regulations, at the direction of the Chief of Administration.

(c) Inspectors shall be under the authority of and responsible solely to the Department, and shall report the results of any examination, classification, or grading of naval stores made by them only to the Chief of Administration or to such persons as such Chief may direct.

Regulation 9. Samples

(a) Samples of spirits of turpentine and rosin within the scope of the Act shall be representative.

(b) Samples of rosin for grading shall be approximately cubical in shape and ⅞ inch thick through the direction in which they are viewed or graded. Samples may be taken by any of the following methods:

(1) By cutting or cleaving from a lump of the rosin removed by means of a "spike" from the solid mass in the barrel or drum, the top side of which lump shall come from not less than six inches below the surface of the rosin.

(2) By means of a tin mold of suitable design which has been placed inside the barrel or drum through an opening in the side, the top of which opening is eight (8) inches from the top of the container, and so that the sample will have come from a position not less than four inches below the surface of the rosin. The mold thus placed must be entirely within the barrel or drum and completely encased in the rosin. It may be removed from the barrel by any suitable device.

(3) By suspending in the barrel or drum of hot molten rosin a ⅞ inch square (inside) tubular mold, 1½ inches or more in length, made of clean thin tin plate, in such a manner that it will be in a horizontal position at least four inches below the top of the rosin in the container after it has thoroughly cooled. The sample contained in such mold is spiked from the barrel after cooling.

(c) For the purpose of determining whether Section 5 of the Act has been violated, samples shall be collected by an inspector and marked to identify same with the lot or packages from which taken.

Regulation 10. Analysis, Classification and Grading on Request

(a) Any naval stores or samples thereof will, if practicable, be examined, analyzed, classified, and/or graded upon request of any interested person, on payment of a fee, as hereinafter prescribed in Regulation 14.

(b) A request to examine, analyze, classify, or grade naval stores shall be made in writing to the Administration or to the nearest inspector. Such request shall state the number and kinds of packages of rosin, or the number and kinds of packages or number of gallons of turpentine to be so inspected, the name of the interested person for whose account such service is to be performed, his interest in the naval stores, and whether the request is to be considered for seasonal or for recurrent service at intervals. It shall be signed by such person or on his behalf by his properly authorized agent.

(c) A request to examine, analyze, classify, or grade naval stores may be withdrawn at any time before such service has been completed, subject to the payment of such fees and expenses as may be prescribed pursuant to Regulation 14.

(d) Tank cars containing spirits of turpentine of which examination, analysis or classification has been requested, will be sealed by the inspector with a seal prescribed by the Department after the sample has been taken therefrom. No certificate of analysis or classification furnished by the Department shall be deemed to be applicable to the contents of any car so sealed, after the seal has been broken or removed.

(e) Except in the case of spirits of turpentine in tank cars, as provided for in paragraph (d) hereof, the interested person requesting any examination, analysis, classification, or grading of any naval stores shall agree that the same will remain intact and undistributed until such examination, analysis, classification, or grading has been completed and the results thereof reported, and, in the case of rosin, the packages have been marked in accordance with the regulations; provided, however, that in case such naval stores do not remain intact and undisturbed until the issuance of the report thereon, such report shall not be in the form of a certificate.

(f) All samples taken by an inspector or submitted by an interested person shall become and remain the property of the Department and shall be disposed of as the Chief of Administration may determine.

Regulation 11. Certificates

(a) A certificate as provided by Section 4 of the Act shall be issued in duplicate on naval stores examined at the request of an interested person. The following are the kinds of certificates issued:

1. Turpentine Analysis and Classification Certificate.
2. Turpentine Field Classification Certificate.
3. Rosin Classification and Grade Certificate.
4. Loan and Sale Certificate for U. S. Graded Rosin.

(b) Each certificate shall contain the information required by the Act, and shall be numbered. The designation and form of certificate and the information supplied thereby shall be determined by the Secretary from the request and the nature of the service rendered, as set forth in paragraph (c) hereof or in Regulation 14.

(c) The owner of any rosin remaining in original packages which has been examined, inspected, graded, and marked by an inspector may, upon written request, obtain a Loan and Sale Certificate for U. S. Graded Rosin (hereinafter designated "L. S. Certificate") to cover a specified number of packages of such rosin as to kind and grade. The request for such certificate shall be made in accordance with Regulation 10, and show in addition the name of the producer, the point of origin of the rosin (if it has moved subsequent to original inspection), date of purchase or sale, proposed date of shipment, name of consignee and destination supported by proper documents or other evidence thereof, satisfactory to the Secretary. Unless the Secretary is satisfied that the rosin has been previously graded and marked by an inspector and the marks have not been changed, he shall not issue a certificate. Such certificate, numbered, will show the number of barrels of each grade covered thereby, as well as identification marks, and will show that it is based on original Rosin Classification and Grade Certificates previously issued.

(d) If any part of a lot of rosin, for which lot an L. S. Certificate is desired, has not been previously examined, inspected, graded, and marked by an inspector and covered by a Rosin Classification and Grade Certificate, it shall first be examined, inspected, graded, and marked by such inspector, and a Rosin Classification and Grade Certificate issued. The cost of such examination, inspection, grading, and marking will be in accordance with Regulation 14, and any expense incurred in connection with the handling, opening, spiking, marking, and coopering of the barrels shall be borne by the interested person in accordance with Regulation 13 (a).

(e) A certificate showing the results of any examination, analysis, classification, or grading shall be issued only on naval stores of which the samples have been taken by or under the personal direction and supervision of an inspector. The certificate shall be valid only for as long as the naval stores described thereby shall remain under seal or undisturbed in the containers, and while the identity and condition of the naval stores remain the same as at the time of issuance of the certificate.

(f) Certificates shall not be issued to cover naval stores, samples of which have not been taken in accordance with paragraph (e) hereof, or to cover any article which does not conform with the standards established under the Act. In such cases a written report, which in no case shall be construed as a certificate, will be issued.

Regulation 12. Methods of Analysis, Classification and Grading

(a) The methods of chemical analysis shall be those prescribed by the Association of Official Agricultural Chemists when applicable; provided, however, that if no method of chemical analysis has been prescribed by the Association of Official Agricultural Chemists or if for any reason any such methods are deemed not suitable or sufficient by the Secretary, any method of analysis or examination satisfactory to him may be employed.

(b) The grade of a sample of rosin, taken in accordance with Regulation 9, shall be determined by comparing same with the appropriate standard types. The grade shall be the grade of the standard type which the sample equals or excels in color.

(c) A package of rosin which, when sampled in accordance with Regulation 9, is found to contain two or more distinct grades of rosin, shall take the grade of the darkest rosin found therein. When sampled also from the bottom head this provision shall not apply if such bottom-head sample is not more than one grade lower than the grade of the sample taken in accordance with Regulation 9. If such bottom-head sample is more than one grade lower than the top-head sample, the grade assigned to the package shall be that of the darkest rosin found therein.

(d) Rosin graded by using so-called "charge samples" or "vat samples", namely those obtained by removing a portion of the rosin while in a hot liquid condition from a vat prior to placing in containers, or obtained from the containers before the rosin has become cold and solidified, is not deemed to have been graded in accordance with the provisions of the Act or these regulations. The sale in commerce of rosin that is found misgraded as the result of such method of sampling and grading shall be considered as constituting willful violation of Section 5 of the Act.

Regulation 13. Preparation, Sampling, and Marking Containers of Naval Stores

(a) An interested person making a request for an examination, analysis, classification, or grading of naval stores shall cause the same to be made available, remove the bungs or heads or otherwise open the containers for sampling, spike the rosin or extract the sampler devices from the barrels, rebung or otherwise close the containers, and mark the same.

(b) Except in the case of tank cars and packages intended to be emptied into a tank car or tank, the interested person making the request shall, under the direction and immediate supervision of the inspector, place upon each package a mark to show that it has been examined, classified and graded, together with such further marks as the Secretary may require. If, however, the article is not naval stores, within the meaning of the Act, or does not comply with any United States standard for naval stores, the package containing it shall not be marked.

(c) All expenses in connection with the sampling, examination, classification, or grading of naval stores as set forth in paragraphs (a) and (b) shall be borne by the interested person making the request.

(d) In case any mark placed on a package of rosin by or under the direction of an inspector has become illegible, the inspector will make such examination before remarking as may be necessary to establish the proper grade or identity of the rosin. No fee will be charged for this service, but the cost of handling, opening, spiking, and recoopering such rosin will be at the expense of the interested person.

(e) Any mark placed upon any package of naval stores by or under the direction of an inspector to show the classification and/or grade or quantity thereof shall not be obliterated, covered up, defaced or otherwise made illegible by any person other than by an inspector as defined in these regulations.

(f) Any package so packed as to conceal the fact that it consists in whole or in part of an article which is not naval stores within the meaning of the Act and these regulations, or any package deemed by an inspector to be unsuitable or unfit to be used as a container of naval stores in commerce, shall not be accepted for classification, grading or marking; provided, that any classification or grade marks on or any certificate issued covering any such package shall not relieve the interested person at whose request the article was inspected from responsibility under any provision of the Act or these regulations, or for delivering a proper article of naval stores in commerce.

Regulation 14. Cost of Analysis, Classification and Grading

(a) For the examination, sampling, analysis and classification of spirits of turpentine, or samples thereof, the interested person requesting such service shall pay a fee, depending on the nature of such service and where it is performed, in accordance with the following rates:

(1) For analysis and classification, viz, determination of such chemical and physical properties as may be necessary to ascertain purity, quality and/or compliance with designated specifications, the charge shall be at the rate of $7.00 for each sample so tested.

(2) For limited examination and classification, viz, determination of kind, and certain easily determined physical characteristics, where such examination and classification require laboratory tests but do not include all the tests described in (1) hereof, the charge shall be at the rate of $1.00 per sample so tested.

(3) For the examination and classification of spirits of turpentine in the field, viz, determination of kind, color, appearance, and quantity of such spirits of turpentine, the charge shall be at the rate of 5 cents per package examined; provided, that except where such turpentine is offered for examination and classification at regular or agreed-upon intervals, the minimum charge for examining and classifying any such lot of spirits of turpentine shall be $2.00; and provided further, that for such examination and classification of the contents of each tank car, the charge shall be $4.00.

(b) For the examination, classification and grading of rosin pursuant to these regulations the interested person requesting such service shall pay fees according to the following scale of charges; provided, however, that except where the rosin is offered for grading at regular or agreed-upon intervals throughout a producing season, the minimum charge for classifying and grading any lot of rosin shall be $5.00:

(1) For quantities of 800 or more round barrels or other packages of rosin offered for grading at any one place at any one time, the charge will be at the rate of 5 cents per round barrel or package, except as provided in paragraph (5) hereof.

(2) For quantities of from 500 to 799 round barrels or packages offered for grading at any one place at any one time, the charge will be at the rate of 6 cents per round barrel or other package, except as provided in paragraph (5) hereof; provided, however, that for any such quantity or lot covered by one or more certificates issued to one person the total charge shall not be in excess of $40.

(3) For quantities less than 500 round barrels or packages offered for grading the charge will be at the rate of 7 cents per round barrel or other package; provided, however, that for any such quantity or lot graded at any one place at any one time covered by one or more certificates issued to one person, the total charge shall not be in excess of $30.

(4) Fees less than the above may be established by the Secretary whenever the quantities offered or to be offered at any point shall be deemed by him to be sufficiently large

to warrant same, and contractual relations shall have been entered into between the Secretary and the interested person or his agent.

(5) The charges of 5 and 6 cents per round barrel or other package established by paragraphs (1) and (2) hereinabove will apply whenever the grading may be handled as for a single lot, regardless of whether certificates are issued to more than one person; provided, however, that when certificates are issued to more than one person, the charge for grading any lot of less than 50 barrels covered by a separate certificate shall be at the rate of 7 cents per round barrel or package.

(c) For each L. S. certificate issued in accordance with Regulation 11 (c) the owner shall pay, in addition to an amount to cover any extra cost incurred by the Government in connection therewith as set forth in paragraph (f) hereof, a fee at the rate of 1 cent per round barrel or other package covered by such certificate; provided, that the minimum charge for any L. S. certificate will be $1.00.

(d) The fee for the analysis, classification, and/or grading of samples of rosin or of anything submitted as such shall be determined in advance in each instance. The person requesting such service shall be notified of such fee and his authority to proceed obtained before such analysis or other examination is made.

(e) No fee shall be charged for a new certificate issued in lieu of an outstanding certificate solely for the purpose of correcting clerical errors therein or for the purpose of substituting a new form of certificate for an outstanding certificate.

(f) Whenever in complying with any request for examination, sampling, analysis, classification, or grading of naval stores it shall be necessary, on account of the nature or urgency of the desired service, for an inspector to depart from a regular schedule or plan of travel, or make a special trip therefor of more than 2 hours duration, including time ordinarily required to proceed to and return from place where service is rendered; or if there be incurred in connection with any such trip extra travel and/or subsistence expenses, as authorized under Government travel regulations; and if, in any such case the service rendered, including time, travel, and subsistence expenses of the inspector, is not compensated by the amount to be collected as fees, as hereinbefore prescribed, then the interested person making the request will be charged such additional amount as, with the prescribed fees, will reimburse the United States for such inspector's time, travel, and subsistence expenses.

(g) Whenever a request for any service, as hereinbefore provided, shall be withdrawn, and there has been any work done, travel performed, or preparation made in connection therewith prior to receipt of such withdrawal, the interested person who requested such service and withdrawal shall pay an amount sufficient to compensate the United States for such work, travel, or preparation, in addition to any other expenses incurred, as provided for in paragraph (f) hereof.

(h) Any shipping expense in connection with any sample taken at the request of an interested person shall be borne by such person.

Regulation 15. Payment for Services

(a) The Administration shall deliver monthly to each interested person its claim for reimbursement on account of services rendered, in accordance with the prescribed fees and these regulations. Such claim shall be issued as soon as practicable after the last day of each month, provided that any such claim may, in the discretion of the Chief of Administration, be rendered at an earlier date.

(b) Payments on account of such claims shall be made by check, draft, post office or express money order made payable to "Treasurer of the United States."

(c) If any claim shall remain unpaid after 60 days from the date when same was rendered, it shall be considered delinquent, and the Chief of Administration may order the discontinuance of any further services, or may require from any delinquent person requesting any further service under the Act a deposit or payment in advance sufficient to cover the fees and expenses involved in the performance of such service.

(d) All moneys received under Regulations 7 (b) and (j) and 14 (a), (b), (c), (d), (f), (g), or (h) will be covered into the United States Treasury as miscellaneous receipts.

Regulation 16. Labels, Invoices, Advertising, and Shipping Documents

(a) All naval stores in commerce shall be graded and described in accordance with the Act and these regulations. Packages are not required to be marked, branded, or labeled to describe the nature, grade, classification, and quantity of the contents thereof, but if not so marked, branded or labeled the invoice or other document pertaining thereto shall describe the said naval stores in accordance with the appropriate standard or standards and these regulations; provided, that spirits of turpentine which complies with the requirements and specifications of the United States Pharmacopoea for "oil of turpentine" shall not be deemed to be in violation of the Act or these regulations when described as "spirits of turpentine," "oil of turpentine" or "gum turpentine."

(b) Naval stores other than in bulk in tank vehicles, when sold or shipped in commerce under any mark or label to indicate the quality or nature thereof, shall be marked, branded or labeled to show the true classification and grade of the article, in accordance with the standard of identity or grade therefor, and shall also show the true identity of the manufacturer or shipper thereof; provided, that where shipment is made for the purpose of having the same graded, the above requirement will be waived only with respect to the grade mark.

(c) The phrase "under or by reference to United States standards," as it appears in the Naval Stores Act, is interpreted as follows: (1) the word "under" means by the use of a label, brand, or mark on the package or anything attached to, connected with, or immediately accompanying the same; (2) the words "by reference to" mean by the use of an invoice, bill of sale, shipping paper, or other document specifically describing or referring to the particular naval stores in question.

(d) The grade of rosin as specified or referred to in any invoice or other document pertaining thereto, as well as the grade shown on the package, shall be the true grade of the rosin, and there shall be no variance between the grade mark on the package and the grade referred to in the invoice or other document pertaining to the same.

(e) Except as provided in paragraph (h) hereof there shall not be used in commerce either the word "turpentine" or the word "rosin", singly or with any other word or words; or any compound, derivative, or imitation of either of these words; or any misleading word; or any word, combination of words, letter, or combination of letters mentioned in the Naval Stores Act, in any lawfully promulgated standard, or in these regulations, as being applicable to naval stores; in selling, offering for sale, advertising, or shipping any article, unless it is an article of naval stores that conforms with the United States standards.

(f) The sale in commerce of a mixture of two or more kinds of spirits of turpentine under any designation is prohibited.

(g) Except as provided in paragraph (n) hereof, the word "turpentine" shall not be used in commerce to describe in any manner a mixture consisting of spirits of turpentine with any other oil or solvent.

(h) Except as may be prohibited by paragraph (g) hereof, the use of the word "turpentine" or the word "rosin" is not prohibited when used to describe and to indicate truthfully: (1) the nature of an article made, prepared, or processed from spirits of turpentine or rosin, or oleoresin; or (2) the process by which the article was made or prepared.

(i) There shall not be used in the sale in commerce of naval stores or anything offered as such, any label, device,

means or practice which is in any manner false, misleading, or deceitful.

(j) Spirits of turpentine packed, described, labeled or sold in a manner indicating that it is a medicinal product or is offered for medicinal use shall be of the standard of quality for such article as laid down in the current U. S. Pharmacopoeia, and shall be subject to the provisions of the Federal Food and Drugs Act, unless there shall appear on the label or principal part thereof a statement that it is not the medicinal article.

(k) The words "pine" or "pine tree" when used to designate the source of any spirits of turpentine shall be deemed to mean a living growing plant of the genus *Pinus*, family *Pinaceae*, unless the words "wood of" are used in connection therewith. The terms "oleoresin of the Southern pine" or "oleoresin from the Southern pine" shall be deemed to mean the gum or oleoresin exuded by such living, growing trees, the same being the source of gum spirits of turpentine.

(l) The word "gallon" when used on or impressed into any container of spirits of turpentine, or when used in invoices referring to spirits of turpentine in packages of 10 gallons or less capacity, shall be construed to mean and refer to the U. S. standard gallon of 231 cubic inches, regardless of any other definitive term used therewith; provided that this shall not apply to the meaning of the words "Imperial gallon." A gallon of turpentine, or any indicated multiple or fractional part thereof, shall be such quantity when measured at a temperature of not more than 75° F.

(m) An inspector examining any naval stores for the purpose of classifying and grading the same shall remove from the package any classification or grade mark thereon which does not properly describe the naval stores in accordance with his findings.

(n) A compound or mixture containing spirits of turpentine or rosin, or both, with other drugs, when sold for medicinal purposes, is not deemed to be subject to the provisions of the Naval Stores Act but is subject to the provisions of the Federal Food and Drugs Act.

Regulation 17. Hearings

(a) Whenever it appears that any of the provisions of the Naval Stores Act have been violated notice shall be given to the firm or person that appears to be responsible for the violation, and to such other person or persons as may be advisable, and a date shall be fixed on which such person or persons may appear and be accorded a hearing. Such hearing shall be held at the office of the Administration most convenient to the persons cited, or at the office of the Administration in Washington, District of Columbia, and only factual matters shall be considered. The person or persons notified may present evidence, either oral or written, in person or by attorney, to show cause why they should not be prosecuted for such apparent violation of the Act.

(b) After such hearing is held, if it appears that the Act has been willfully violated the Secretary shall report the facts for prosecution.

Regulation 18. Publication of Findings

(a) After any judgment has been rendered in any court of competent jurisdiction with respect to any proceeding arising under the Act, notice shall be given by publication. Such notice shall include the finding of the court and may include the analysis, classification, and grade of any article involved in such proceeding and such explanatory statements of fact as may be appropriate. If an appeal shall have been taken from the judgment of the court before such publication, that fact shall appear.

(b) The results of the analysis, classification, or grading made under this Act of any spirits of turpentine or anything offered as such may be published from time to time.

(c) Publications under this regulation may be in the form of a circular notice or bulletin.

[F. R. Doc. 38-1381; Filed, May 14, 1938; 12:25 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 92]

THE FEDERAL LAND BANK OF SAINT PAUL

SCHEDULE OF FEES FOR SUBORDINATION OF MORTGAGES, PARTIAL RELEASE OF MORTGAGE SECURITY, PARTIAL CONVEYANCE OF CONTRACT SECURITY AND RELEASE OF CONDEMNATION AWARD FUNDS, WITH RESPECT TO FEDERAL LAND BANK AND/OR LAND BANK COMMISSIONER MORTGAGES

Pursuant to Paragraph Ninth, Section 13 of the Federal Farm Loan Act as amended, [12 U. S. C. 781, Ninth], and to Section 32 of the Emergency Farm Mortgage Act of 1933, as amended [12 U. S. C. 1016 (e)], and by action of the Executive Committee of The Federal Land Bank of Saint Paul on March 17, 1938, and with the approval of the Farm Credit Administration thereafter duly granted, the following schedule of fees and charges was adopted:

1. The following fees and charges shall be paid to The Federal Land Bank of Saint Paul for subordinations of mortgages, partial releases of mortgage security, partial conveyances of contract security or for releases of the gross, net or any part of the net amount of condemnation award funds:

(a) Where a single mortgage to the Federal Land Bank or a single mortgage to the Land Bank Commission is involved	$10.00
(b) Where a contract for deed from either the Federal Land Bank or Federal Farm Mortgage Corporation is involved	10.00
(c) Where mortgages to both the Federal Land Bank and Land Bank Commissioner are involved	12.50
(d) Where a contract for deed from the Federal Farm Mortgage Corporation and a mortgage to the Federal Land Bank is involved	12.50
(e) Where reappraisal of the security is deemed necessary by the Federal Land Bank the additional fee shall be	10.00

2. No partial release or partial conveyance fee shall be charged if the consideration for the partial release or partial conveyance of acreage is $100.00 or less, but the appraisal fee of $10.00 shall be charged if reappraisal is deemed necessary by the Bank. No fee shall be charged for the release, conveyance or transfer of gravel, timber, buildings, etc., where the consideration or evident value thereof is $250.00 or less.

3. In cases of condemnation there shall be no fees or charges when either the gross or net amount of the award is applied on the mortgage or contract debt. The net amount of an award shall be construed to be the gross amount thereof less the amount of unpaid taxes which are a lien thereon and less such amount or amounts as may be separately awarded in the condemnation proceedings, or allowed by the Bank, for replacement and/or relocation of structures and/or fences and/or similar purposes.

4. In cases of condemnation when an application is made for the release of the gross, net, or any part of the net amount of the award the fees and charges provided in paragraphs 1 and 2 above shall be paid to the Bank.

[SEAL] THE FEDERAL LAND BANK OF SAINT PAUL,
By G. S. GORDHAMER, *Executive Vice President.*

[F. R. Doc. 38-1389; Filed, May 16, 1938; 12:31 p. m.]

[FCA 93]

THE FEDERAL LAND BANK OF SAINT PAUL

FEES AND CHARGES FOR REAMORTIZING LAND BANK COMMISSIONER LOANS

Pursuant to Sections 1 and 2 of the Federal Farm Mortgage Corporation Act, as amended [12 U. S. C. 1020, 1020a], and to Section 32 of the Emergency Farm Mortgage Act of 1933, as amended [12 U. S. C. 1016], with the prior authorization (3 F. R. 90) and the subsequent approval of the Federal Farm Mortgage Corporation, the Executive Committee of The Federal Land Bank of Saint Paul adopted a resolution on February 8, 1938, providing that the following fees and expenses be charged to and paid by the

borrower for each Land Bank Commissioner loan reamortized:

A flat fee of $9.00 will be charged by the Federal Farm Mortgage Corporation for each loan reamortized. The borrower will also be required to pay any direct expenses, such as notarial fees, etc., that may be involved. However, in the event the reamortization agreement is recorded, the recording expense therefor will be borne by the Federal Farm Mortgage Corporation.

[SEAL] THE FEDERAL LAND BANK OF SAINT PAUL,
By G. S. GORDHAMER, *Executive Vice President.*

[F. R. Doc. 38-1389; Filed, May 16, 1938; 12:32 p. m.]

[FCA 94]

AUTHORITY TO EXECUTE PARTS II AND III OF AGRICULTURAL ADJUSTMENT ADMINISTRATION FORM ACP-69

Pursuant to the authority vested in me by an Act of Congress approved January 29, 1937 (Public No. 3—75th Congress), and a Joint Resolution of Congress approved February 4, 1938 (Public Resolution No. 78, 75th Congress), it is hereby ordered that:

1. Each field supervisor, collector, and bonded employee (on temporary duty in the field) of the Emergency Crop and Feed Loan Section is hereby authorized to execute, as my agent, Part II of Form ACP-69 (Agricultural Adjustment Administration Assignment Form—for assignment of payments under section 8 of the Soil Conservation and Domestic Allotment Act, as amended).

2. Each regional manager and each credit and collection manager of an emergency crop and feed loan office is hereby authorized, severally and not jointly, to execute, as my agent, Part III of said Form ACP-69.

3. All actions of the kind referred to in paragraphs 1 and 2 above, which have heretofore been performed by the respective persons mentioned in said paragraphs, are hereby ratified and confirmed.

4. The provisions of this order shall be effective as of the opening of business on the date above written, and shall remain in full force and effect until amended or revoked by subsequent order.

[SEAL] W. I. MYERS,
Governor.

[F. R. Doc. 38-1390; Filed, May 16, 1938; 12:33 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2620]

IN THE MATTER OF WEST PENN DISTILLING CO., INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that it waives hearing on the charges set forth in said complaint and that, without further evidence or other intervening procedure, the Commission may issue and serve upon it findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, West Penn Distilling Co., Inc., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution in interstate commerce or in the District of Columbia, of whiskies, gins, or other spirituous beverages (except gins produced by it through a process of rectification whereby alcohol purchased but not produced, by respondent, is redistilled over juniper berries and other aromatics), do cease and desist from:

Representing, through the use of the word "distilling" in its corporate name, on its stationery, advertising, or on the labels attached to the bottles in which it sells and ships said products, or in any other way by words or words of like import, (a) that it is a distiller of whiskies, gins or other spirituous beverages; or (b) that the said whiskies, gins or other spirituous beverages were by it manufactured through the process of distillation; or (c) that it owns, operates or controls a place or places where any such products are by it manufactured by a process of original and continuous distillation from mash, wort or wash, through continuous closed pipes and vessels until the manufacture thereof is completed, unless and until respondent shall actually own, operate, or control such a place, or places.

It is further ordered, That the said respondent, within sixty (60) days from and after the date of the service upon it of this order, shall file with the Commission a report or reports in writing setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1378; Filed, May 14, 1938; 9:25 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3296]

IN THE MATTER OF LOUISVILLE POTTERY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 6, 1938, at ten o'clock in the forenoon of that day (central standard time), in Court Room No. 1, Federal Building, Louisville, Kentucky.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1383; Filed, May 16, 1938; 9:32 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of May, A. D. 1938.

[File No. 32-90]

IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 2, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 26, 1938.

The matter concerned herewith is in regard to an application filed by Washington Gas Light Company, a subsidiary company of Washington and Suburban Companies, a registered holding company, for exemption from the provisions of section 6 (a) of said Act of

(1) the issue and sale by it of 15,600 shares of $4.50 Cumulative Convertible preferred stock without par value, to a group of underwriters for resale to the public;

(2) the issue and delivery by it to certain holders of common stock without par value of warrants to subscribe to 2,497 shares of said 15,600 shares of preferred stock without par value;

(3) the issue and exchange by it of 48,600 shares of common stock without par value from time to time, as may be required when and as the holders of said 15,600 shares of preferred stock elect to exercise the conversion rights applicable thereto.

The sale to the underwriters will be subject to prior rights of holders of common stock to subscribe to their proportionate part of said 15,600 shares of preferred stock.

The funds derived from the sale are to be used to reimburse applicant's treasury for expenditures made in connection with additions and expansions of applicant's plants and distribution system made prior to December 31, 1937.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1391; Filed, May 16, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of May, A. D. 1938.

[File No. 32-82]

IN THE MATTER OF FALL RIVER ELECTRIC LIGHT COMPANY

ORDER EXEMPTING ISSUE AND SALE OF NOTES FROM PROVISIONS OF SECTION 6 (A), PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Fall River Electric Light Company, a subsidiary of New England Power Association, a registered holding company, having duly filed an application with this Commission pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of the Act regarding the issue and sale of $2,000,000 principal amount First Mortgage Bonds, Series A, dated May 1, 1938, to mature May 1, 1968, and to bear interest at the rate of 3½% per annum, payable semi-annually on the first days of May and November of each year.

Hearings on such matter having been held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon condition however, that if the express authorization of the issue and sale of said securities by the Department of Public Utilities of the Commonwealth of Massachusetts shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission; and upon the further condition that on or before the tenth day of July, 1938, the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1392; Filed, May 16, 1938; 12:46 p. m.]

VETERANS' ADMINISTRATION.

REVISION OF REGULATIONS

REIMBURSEMENT OR PAYMENT FOR EXPENSES OF UNAUTHORIZED MEDICAL SERVICES

R-6140. *Adjudication in central office.*—(A) Claims for reimbursement or payment of expenses of medical services obtained without prior authorization of the Veterans' Administration, as hereinafter comprehended, will be adjudicated in the medical and hospital service, central office.

(B) Chief medical officers of regional offices and facilities with regional office activities, upon receiving such claims, will be required to develop them, as hereinafter instructed (R. & P. R-6148), before forwarding them, with the beneficiary's file, to central office.

(C) Upon receipt by the medical director, claims so referred will be reviewed by the medical officers clothed with delegated authority therefor. Such of these claims as are recommended for reimbursement or payment by such officers in an amount of less than $500 will be submitted to the assistant administrator in charge of medical and domiciliary care, construction and supplies for approval, or if the amount is $500 or more such claims will be submitted to the Administrator for approval. Upon approval as herein provided, a voucher will be prepared in central office.

(D) *Appeals.*—Both types of such claims, as defined in R. & P. R-6141 will be subject to one review after an adverse decision, upon appeal to the Administrator. Appeals must be entered within one year from the date of notification to the claimant or his representative of the original adverse decision. No claim that had been finally denied

prior to March 20, 1933, will be reopened or reconsidered. A claim will be deemed to have been finally denied when: (1) Original adjudication or appellate action was taken adversely, and proper appeal was not entered prior to March 20, 1933, or within one year from the date on which the claimant was notified of the adverse action, whichever is the later date; or (2) When the claim was finally denied on appeal prior to March 20, 1933 (Public No. 307, 74th Congress). (May 16, 1938.) (V. R. No. 6 Series.)

R–6141. *Classes of claims comprehended.*—Claims for reimbursement of or payment for medical treatment obtained without prior authorization from the Veterans' Administration (including the necessary travel incidental to the procurement of such treatment) may be submitted and will be considered under the following conditions:

(A) The claim must be for treatment of a service-connected disease or injury only; or for the adjunct relief of an associated nonservice-connected condition which, in the determination of the medical director, was aggravating the disability from the basic service-connected disorder.

(B) As to unauthorized treatment rendered prior to March 20, 1933, the claims will be limited to cases falling within the final proviso of section 202 (9), World War Veterans Act, 1924, as amended, viz., (1) The treatment must have been rendered in a medical emergency; (2) Government facilities must have been not feasibly available; (3) Delay would have been hazardous. All of these three elements must have existed, and if any one was lacking reimbursement or payment will not be authorized. (4) Claim must have been filed with the Veterans' Administration prior to March 20, 1933, as required by Public No. 307, 74th Congress, Act of August 23, 1935.

(C) As to unauthorized treatment rendered subsequent to March 19, 1933, the entitlement criteria defined as (1), (2), (3) of subparagraph (B) hereof will apply, and in addition thereto it must be shown that the disability for which treatment was rendered was service-connected and of compensable or pensionable degree. (May 16, 1938.) (V. R. No. 6 Series.)

R–6142. *Conditions controlling claims.*—When the unauthorized treatment was rendered prior to June 7, 1924, no payment or reimbursement will be made for any period over which compensation had not been awarded for the service-connected disability. When the unauthorized treatment was rendered subsequent to June 7, 1924, payment or reimbursement, in accordance with the provisions of section 202 (9), World War Veterans' Act, 1924, as amended, may be allowed regardless of the compensability of the beneficiary's service-connected disability, but in no case more than one year prior to the date of filing claim under section 210, World War Veterans' Act, 1924, as amended (Comptroller General's Decision A–20304, Nov. 2, 1927). (May 16, 1938.) (Public, No. 307, 74th Congress, V. R. No. 6 Series.)

R–6143. *Definitions.*—(A) The term "Beneficiary" as used in R. & P. R–6140 to 6148, inclusive, means:

(1) In claims for payment for or reimbursement of expenses incurred in procuring unauthorized treatment prior to March 20, 1933, any veteran of the World War, not dishonorably discharged, who after filing claim for disability compensation (application for which includes application for treatment) is determined by the Veterans' Administration to have had a service-connected disability entitling to treatment through the Veterans' Administration.

(2) As to claim for unauthorized treatment rendered subsequent to March 19, 1933,—any veteran who at the time of such treatment was suffering from a service connected disability of a compensable or pensionable degree.

(B) "Emergency", as used in R. & P. R.–6140 to 6148, inclusive, means treatment of a condition which, in sound medical judgment, will not permit of delay without endangering the claimant's health or life.

(C) "No facilities are or were then feasibly available", as used in R. & P. R–6140 to 6148, inclusive, means that an attempt to use such facilities beforehand would not have been reasonably sound, wise or practicable, or that treatment had been or would have been denied. In applying this definition, the distance from a Veterans' Administration facility; the location of the patient; the sex and color; the nature and degree of his disability; the available means of transportation; the season and weather conditions then prevailing; the type of medical personnel or equipment requisite; and the time the services were rendered, are elements to be given consideration.

(D) "Delay would be or would have been hazardous", as used in R. & P. R–6140 to 6148, inclusive, means the risk of possible disastrous consequences attendant upon an endeavor by the claimant to secure treatment through Governmental agencies, under any or all circumstances. (May 16, 1938.) (Public No. 307, 74th Congress, V. R. No. 6 Series.)

R–6144. *Adjunct Treatment.*—Reimbursement of or payment for adjunct treatment (see R. & P. R–6141 (A)) will be allowed only when such treatment was rendered in an emergency. For such adjunct treatment rendered prior to June 7, 1924, no payment or reimbursement will be made for any period over which compensation had not been awarded for the basic service-connected disease or injury. For adjunct treatment rendered subsequent to June 7, 1924, and where claim was filed prior to March 20, 1933, payment or reimbursement therefor may be allowed regardless of the compensability of the beneficiary's basic service-connected disease or injury, but in no case more than one year prior to the date of filing claim under section 210 of the World War Veterans Act, 1924, as amended (Public No. 307, 74th Congress). For adjunct treatment rendered subsequent to March 19, 1933, no payment or reimbursement will be made unless the basic service-connected disease or injury was, at the time of such treatment, causing disability of such degree as to entitle to disability compensation or pension. (May 16, 1938.) (V. R. No. 6 Series.)

R–6145. *Statement to support claims.*—(A) Nursing services.—To support a claim for unauthorized medical service when a nurse had been employed, a statement will be required from the attending physician showing necessity for such nurse, and whether she was a registered graduate or a so-called "practical nurse". When, for any good reason, it is not practicable to procure such statement, and in the judgment of the physician of the medical and hospital service reviewing the claim, the need for a nurse is sufficiently established, the latter may so certify. Payment for service of a "practical nurse" will be allowed only in the exceptional cases wherein a registered graduate nurse could not be engaged.

(B) *Room and board.*—Where claim is made for an amount in excess of $3 per diem for room and board, the excess will not be allowed unless there is submitted a statement from the attending physician or superintendent of the hospital concerned that the claimant's condition demanded the use of a private room, for which a fee not in excess of $5 may be allowed. However, this provision will not prohibit approval by the medical director of a fee exceeding $5, in exceptional and meritorious cases.

(C) *Visits made outside of a city or town.*—All visits made outside of a town or city limits should show the time consumed by the physician in actual travel as required by the fee table in effect at the time such services were rendered.

(D) *Prescriptions.*—When reimbursement is claimed for prescriptions, copies of the prescriptions must be supplied, or in lieu thereof, when it is impossible to obtain the prescriptions, an itemized statement from the druggist showing the kinds of medicines furnished, may be accepted. All bills for drugs and laboratory services must be fully itemized. No lump sum charges are allowable. (May 16, 1938.) (Public No. 307, 74th Congress, V. R. No. 6 Series.)

R–6146. *Schedule of fees to be followed.*—In the adjudication of claims for unauthorized medical treatment, the schedule of fees, Veterans' Administration, will govern as to allowance for items. If the schedule of fees in effect at the time the treatment was rendered did not provide a fee for the particular service, the schedule in effect at the time the claim is being considered will be applied. If the particular service is not covered by the schedule in effect, a fee not in excess of what is reasonable and customarily charged in the

community concerned, may be allowed. (May 16, 1938.) (Public No. 307, 74th Congress, V. R. No. 6 Series.)

R–6147. *Treatment not dependent upon preference of a patient.*—No reimbursement or payment of unauthorized medical treatment will be made when procured by a claimant through private sources in preference to available Government facilities (Decisions Comptroller General, Jan. 31, 1924, A. D. 8111, Jan. 28, 1925, A–6594). No payment or reimbursement will be made for any unauthorized medical service (including incident necessary travel) under conditions other than specified in R. & P. R–6140–6148 inclusive. (May 16, 1938.) (Public No. 307, 74th Congress, V. R. No. 6 Series.)

R–6148. *Cooperation of field stations.*—(A) Guided by the controlling provisions of R. & P., R–6140–6147 inclusive, chief medical officers of regional offices and facilities with regional office activities will advise claimants whether they have or have not prima facie eligibility to reimbursement or payment of unauthorized medical expenses. If the claim is patently inadmissible (e. g., if made for treatment of a nonservice-connected condition, etc.) the claimant will be so advised and the claim will not be forwarded to central office. But if the basic facts indicate prima facie eligibility, the chief medical officer will instruct the claimant as to all the supporting exhibits; and, after these have been checked as satisfactory, they will be assembled and forwarded, with the Form 583, the case file, and recommendation for payment (with comment, if desired), to the medical director.

(B) Upon request therefor by a field station, central office will send sufficient copies of Form 583, Claim for Cost of Unauthorized Medical Treatment. This form will be executed by each creditor who has rendered service for which payment has not been received; or by each person who has paid, from his personal funds, the cost of the unauthorized medical treatment. The signature of the claimant must be attested by a notary public, or any other officer authorized to administer oaths for general purposes, and the claim supported by completely itemized bills or statements of account. When a claim is presented by a creditor, it is further required that a statement be supplied, signed by the patient or his representative, certifying to the amounts due and unpaid. (May 16, 1938.) (Public No. 307, 74th Congress, V. R. No. 6 Series.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38–1387; Filed, May 16, 1938; 11:31 a. m.]

Wednesday, May 18, 1938 *No. 97*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 4061 OF AUGUST 12, 1924, AND PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 4844 OF MARCH 23, 1928, WITHDRAWING PUBLIC LANDS

New Mexico

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, I hereby revoke (1) Executive Order No. 4061 of August 12, 1924, in so far as not heretofore revoked by Executive Order No. 4811 of February 16, 1928, withdrawing public lands in New Mexico pending a resurvey, and (2) Executive Order No. 4844 of March 23, 1928, withdrawing public lands in New Mexico pending a resurvey, as to the following-described lands:

NEW MEXICO PRINCIPAL MERIDIAN

Tps. 7 and 8 S., R. 5 W.

This order shall become effective upon the date of the official filing of the plats of the resurvey of said lands.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 16, 1938.

[No. 7886]

[F. R. Doc. 38–1397; Filed, May 17, 1938; 11:09 a. m.]

EXECUTIVE ORDER

EXTENDING THE PROVISIONS OF THE CIVIL SERVICE RETIREMENT ACT TO EMPLOYEES APPOINTED UNDER AUTHORITY OF SECTION 10 OF CIVIL SERVICE RULE II

By virtue of and pursuant to the authority vested in me by section 3 of the Civil Service Retirement Act of May 29, 1930 (46 Stat. 470, U. S. C., title 5, sec. 693), and upon recommendation of the Civil Service Commission, it is ordered that the provisions of the said Civil Service Retirement Act be, and they are hereby, extended to apply to all employees who serve under appointments made without competitive examination under authority of section 10 of Civil Service Rule II and who are citizens of the United States, except those whose employment is intermittent or on a *per diem* when-actually-employed basis.

This order shall become effective on July 1, 1938.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 16, 1938.

[No. 7887]

[F. R. Doc. 38–1393; Filed, May 17, 1938; 11:09 a. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND FOR CLASSIFICATION, ETC.

Alaska

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and subject to the conditions therein expressed, it is ordered that the following-described public lands in Alaska be, and they are hereby, temporarily withdrawn from settlement, location, sale, or entry, for classification and pending a determination as to the advisability of reserving them for national-monument purposes:

SEWARD MERIDIAN

T. 4 N., R. 11 W. (unaccepted survey),
sec. 20, E½;
secs. 21 and 23;
sec. 29, E½;
aggregating 1,920 acres.

This order shall continue in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 16, 1938.

[No. 7888]

[F. R. Doc. 38–1399; Filed, May 17, 1938; 11:09 a. m.]

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 7520 OF DECEMBER 18, 1936, WITHDRAWING LANDS FOR USE OF THE WAR DEPARTMENT AS A TARGET RANGE FOR THE ARIZONA NATIONAL GUARD

Arizona

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, Executive Order No. 7520 of December 18, 1936, withdrawing lands for use of the War Department as a target range for the Arizona National Guard, is hereby revoked.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 16, 1938.

[No. 7889]

[F. R. Doc. 38–1400; Filed, May 17, 1938; 11:03 a. m.]